

3 1761 11651363 1

RB12446



Presented to the
LIBRARY *of the*
UNIVERSITY OF TORONTO
by
Royal Commission
on Taxation

HANDBOUND
AT THE




UNIVERSITY OF
TORONTO PRESS

CAI
Z 1
-62722 cage
Government
Publications

Canada. Royal commission on taxation.

Hearings. v. 9-15, 1963.

1966



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TAXATION

Hearings held in Room 404,
McConnell Engineering Building,
McGill University, Montreal,
Quebec, the 26th day of April,
1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

i

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF MONTREAL, QUEBEC

April 26, 1938

TOPICAL INDEX

VOLUME No. 9

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a)	<u>INTRODUCTION:</u>	
	Opening remarks of the Chairman	710
(b)	<u>Submission; Of</u>	
	<u>Mr. Julius Scharing,</u>	
	<u>(An individual taxpayer)</u>	710
34.	Personal Income Tax- Deductions	715 / 722
35.	Personal Income Tax- Exemptions	715 / 722
38.	Personal Income Tax- Other	711 / 730
49.	Tax administration	714
(c)	<u>SPECIFIC DISCUSSIONS:</u>	
	Occupation of the participant	724
	Preamble	710 / 721
	Proposed withholding tax payment as assessed pending objection and appeal	711 / 727
	Elimination of interest penalties on re-assessments due to department delays in processing returns	711, 712
	Fee payable on rejection of appeal should be eliminated	713, 727, 728
	Rental property re-occupied by owner, Capital cost allowance recapture of taxable, objection to present methods and measures of Tax Department	714, 715, 725 / 727
	Suggested increase in basic deductions, illustrated points, and results	715 / 722
	A review of the medical and related expenses in establishing the taxable income	713, 724, 725
	Interest penalties and appeal costs	727 / 730
	Closing remarks of the Chairman	731



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Montreal, April 25, 1963

ii

Volume No. 9

1			
2	<u>Titles</u>	<u>Description</u>	<u>Page</u>
3	(d)	<u>Submission:Of</u>	
4		Canadian Association of University Teachers (an all University Body)	732
5		Opening remarks of the Chairman	732
6	34	Personal Income Tax - Deductions	733 756
7	35	Personal Income Tax - Exemptions	733 756
8	33	Personal Income Tax - Other	733
9	(e)	<u>SPLENDID DISCUSSIONS:</u>	
10		Preamble (The tax problem of the teaching Professors)	732 739
11		A matter concerning travelling expenses of Professors in respect to specific assignments, disallowances of.	733 737
12		Tax status of Professors when reporting on an Employer- Employee relationship	740, 741
13		The problem of travelling, living expenses, tax wise, in respect to summer schools, lectures on tour, and attending congresses	742, 743
14		The status of a Professor viewed as a professional in business as a taxation determining factor for expense allowance and deduction in pursuing his occupation	747 756
15			
16		Closing remarks of the Chairman	755, 757
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

iii

Montreal, April 26, 1963

Volume No. 9

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(f)	<u>Submission: Of</u>	
	The Great Britain and Canada Investment Corporation	758
	Opening remarks of the Chairman	758
II.	Business Income Taxation-Specific Industries	758 / 773
(g)	<u>SPECIFIC DISCUSSIONS:</u>	
	Proposals in respect to Canada closed-end Investment trust Companies under section 69 of the Income Tax Act; (Seven main proposals)	758 / 761
	The qualifications of the representative of the participant	761, 762
	Extent to which Company is typical of Canadian mutual funds	762 / 767
	Investment trust expressed as a conduit	767 / 769
	An explanation of dividends in relation to Investment Trusts, and tax credits	769
	Suggest Income received by Company trust non-taxable if distributed in the year received	770 / 772
	Status of retained earnings in relation to taxation application	772, 773
	Capital gains arising from Investment transactions, deemed as income subject to tax	775
	The question of Canadian equity Capital, holdings by Canadian residents could be increased by more favourable tax consideration	773, 777
	Closing remarks of the Chairman	777, 778



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

iiii

Montreal, April 26, 1933

Volume No. 9

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
29	Brief of Mr. Juluis Scharing	710
30	Amendments with respect to paragraphs 5 and 8 of brief of Juluis Scharing	716
31	Submission of The Canadian Association of University Teachers	732
32	Brief of Great Britain and Canada Investment Corporation	753



"A"
RL/bg

Montreal, Quebec,
Friday,
April 26th, 1963.

---On commencing at 9:30 o'clock a.m.

THE CHAIRMAN: Mr. Secretary, are we ready to proceed?

THE SECRETARY: We are, sir.

THE CHAIRMAN: Before introducing Mr. Scharing, is there any business?

THE SECRETARY: Nothing other than the present participant this morning.

Mr. Chairman, Mr. Scharing, of the Province of Quebec, is with us this morning. Mr. Scharing has presented a brief to the Commission, which I now enter into the record as Exhibit No. 29.

---EXHIBIT NO. 29: Brief of Mr. Julius Scharing.

SUBMISSION OF MR. JULIUS SCHARING

APPEARANCE: Mr. Julius Scharing

THE CHAIRMAN: Thank you, Mr. Secretary.

Good morning, Mr. Scharing. It is nice of you to come to see us. I understand from our conversation that you are an individual who wishes to speak to us on taxation. We have already read your submission. Would you like to speak to it? We don't want you to read it because we have already read it, but if you would like to summarize it and speak to it, otherwise we will proceed to ask you questions.

MR. SCHARING: Yes. Mr. Chairman, I think you will notice that my memorandum is perhaps a little



1 bit different from the usual procedure. I specify
2 specifically to change certain sections of the Income
3 Tax Act concerning personal income tax and
4 considering the effect the changes may have for the
5 good of most of the people.

6 I want to make a few remarks. In the
7 second section of the first half of my memorandum --
8 these are the less important ones -- one of my proposals
9 is that if tax is ^{assessed} on the taxpayer and the tax-
10 payer makes an objection, he shouldn't be compelled to
11 pay the tax, because we used to assume a man is not
12 guilty until he is found guilty. Now, the conviction
13 which the Revenue Department has is that a certain amount
14 of taxes have to be paid, and if it is objected to,
15 the Department can be right, the taxpayer can be right.
16 It is difficult for the taxpayer to get it from
17 somewhere, so in this case he is required in thirty
18 days to pay the tax. Even though he is allowed
19 ninety or sixty days, he should not be compelled to pay
20 the tax.

21 The second proposal is to eliminate interest
22 charged on the reassessments. It may happen that the
23 taxpayer sends in certain information. I want to
24 remark that it happened to myself. I sent in a return
25 with certain information for the Tax Department, and
26 I computed my income tax assessment. They accepted
27 my figures, and about two and a half years later I
28 received a letter for some information regarding the
29 return. A little bit later I received a reassessment
30 with the interest rate of 6 per cent for two and a half



1 years. I made an objection; it was just an oversight
2 by me in the Income Tax Act which I didn't understand
3 properly, but reassessment was based on original
4 information I had sent in. Let's say, for instance,
5 a taxpayer may be named Donaldson. Now, when a
6 revenue official starts to look at the returns he probably
7 starts at the letter A, and Mr. Donaldson will be
8 dealt with in due course. Now, with my name starting
9 with S, probably they didn't come to my name for about
10 two and a half years. Well, because my name starts
11 with a letter at the end of the alphabet rather than at
12 the beginning, I have to pay interest on this. I
13 can understand that there is a certain amount of work
14 involved, but I believe it is a little bit incorrect
15 that interest be charged for the period before the
16 assessment is done, if, as I say, it is based on
17 information given at the time the return was filed.

18 What happened in my case was that they lost
19 my letter.

20 THE CHAIRMAN: We would prefer in reviewing
21 your submission to take it part by part. You do
22 divide it up into a very convenient form, and we would,
23 I think, follow that form. But by all means carry on
24 and speak to it if you wish to do so.

25 MR. SCHARING: This refers to the second
26 half of my memorandum. In succeeding paragraphs, another
27 item is that we have in the income tax provision
28 that the taxpayer has to pay six per cent on tax due
29 not paid on the date of filing. On the other hand,
30 on overpayment the government allows a payment of three



1 per cent interest. I believe it is correct that
2 the government should pay 6 per cent on over payment
3 amounts, just the same as the taxpayer has to pay on
4 overdue payments. The same would apply to unpaid
5 refunds. So to make it equal for both parties, I
6 propose to change it.

7 Another aspect is if an objection is rejected
8 by the Tax Appeal Board the taxpayer is required to pay
9 a fee of \$15.00. In my opinion, that fee should be
10 eliminated, because sometimes the taxpayer may not be
11 able to ^{pay} the \$15.00 fee, and for that reason he may not
12 go through the procedure of appealing to the Income
13 Tax Appeal Board.

14 There is another matter. If the fee is
15 eliminated the taxpayer may say it doesn't cost
16 anything and overload the work of the Tax Appeal Board.
17 But I doubt that this would be the case.

18 Now, the taxpayer is not able to pay the full
19 sum and he requests to pay in instalments. I propose
20 that this agreement should be made in writing so that
21 the taxpayer knows what the agreement is, and if it
22 comes to a misunderstanding he can refer to it. At
23 the present time, if a taxpayer requests instalment
24 payments it may not be accepted by the Tax Office
25 or it may be changed by a phone call. It happened
26 to myself, where I request part payment and it stated
27 on the letter at what time and how much I would like
28 to pay this, and the tax officials refused, they did
29 not accept my offer and refused to give me an answer,
30 a reply to my letter, to which I objected. I offered



1 to take it higher. As a matter of fact, I was told
2 I should go to a loan company and get the money to pay
3 the tax. I believe it is a personal matter where I
4 get my money from. Is not the Department, it is
5 the employees who have to do this.

6 Another aspect, speaking of administration,
7 I don't know if it is in other cities in Canada, but
8 in Montreal you will not receive a receipt for tax
9 payment unless it is requested. I believe for
10 record purposes specially they should issue a tax
11 receipt, official receipt. I would bring an example
12 of myself. I requested the tax receipts and I did not
13 get them. I went personally to the Department, where
14 they say they can't do it, and they sent me here and
15 sent me there, back and forth, and they wrote me a
16 letter and told me it was posted and then a few weeks
17 later they sent me a letter saying it was posted.

18 Secondly, they say a cancelled cheque is
19 a valid receipt. If a taxpayer moves away from
20 Quebec and if the taxpayer has to go and get some
21 evidence of payment of tax, I believe this would be
22 quite difficult if he has to write from Winnipeg, say,
23 to a bank in Montreal. There is a time limit for
24 the payment of tax, and the next thing is that you
25 will get a notice that they will seize your property,
26 which happened to me, too, by the way.

27 The last thing I want to mention is that
28 in connection with rental property, if the taxpayer
29 has rental property and he will not re-rent it and
30 will use it for his own purposes, the previous allowable



1 deductions of capital cost allowances have to be
2 recaptured and tax paid on it. If I sell the
3 property I receive some revenue and I am able to pay the
4 tax that is due. I don't say the whole family will
5 live there but I believe ^{it} should not be considered as
6 disposed of because the taxpayer didn't receive any
7 money by which he should pay this.

8 Now, Mr. Chairman, I come to the fourth part,
9 which I consider to be the most important one. That
10 is my suggestion on increasing the basic deductions.
11 We have to put more money into the people's hands to
12 improve our economy.

13 Before I make a few remarks, Mr. Chairman, I
14 am sorry to say that my memorandum in one of the
15 paragraphs had a little omission in reference to
16 increase in the deduction for children not qualified
17 for family allowance.

18 THE CHAIRMAN: Where do you find that?

19 MR. SCHARING: On page 4, paragraph 5, in the
20 fourth line after "allowance" there should be inserted
21 "from \$550 to \$800 if not so qualified".

22 THE CHAIRMAN: In the first line of five or
23 in the fourth line?

24 MR. SCHARING: In the fourth line after
25 "qualified for family allowance" there should be
26 inserted "from \$550 to \$800 if not so qualified".

27 THE CHAIRMAN: Read the paragraph as it
28 stands now corrected, would you?

29 MR. SCHARING: Yes. There is one more
30 correction, Mr. Chairman. It is contained in paragraph



1 8, page 5, on the first line. After "\$700" there
2 should be inserted "or \$800." I want to remark
3 that in reference to paragraph 5, which is the basic
4 deduction, I had inserted this and it was only a slip
5 on my part, so it should be the same in all the
6 paragraphs concerning this proposal.

7 THE CHAIRMAN: Read paragraph 5 as corrected,
8 please.

9 MR. SCHARING: Paragraph (d) of subsection
10 (1) of section 26 of division C in respect of other
11 dependents, the amount be increased from \$300 to
12 \$700 if the person was a child qualified for family
13 allowance, from \$550 to \$800 if not so qualified,
14 from \$550 to \$600 if the person was qualified for old
15 age pension and, from \$550 to \$1,000 if the person was
16 not qualified for old age pension.

17 THE CHAIRMAN: Thank you.

18 MR. SCHARING: Mr. Chairman, may I file
19 this with the Secretary?

20 THE CHAIRMAN: Yes.

21 THE SECRETARY: We will call this Exhibit 30,
22 Mr. Chairman, and have the records corrected.

23 ---EXHIBIT NO. 30: Amendments with respect
24 to paragraph 5 and 8
25 of brief of Juluis Scharing.

26 MR. SCHARING: Mr. Chairman, I have a few
27 remarks on this which I think are important.

28 For perhaps fifteen or more years the basic
29 deduction for combined income tax returns have never
30 been changed, with the exception of allowance for



1 children and other dependents, which were actually
2 increased by \$50. Considering \$50 these days,
3 you know yourself you can't buy very much for \$50 when
4 it comes to supporting children and other dependents.
5 The difference between the amount for the deduction
6 allowed for family allowance and not for family
7 allowance I believe is much too large. The most a
8 family can receive is about \$8.00 a month which is
9 about \$96.00 a year. So in my opinion the difference
10 should be only \$100.00 and not \$250.00 as appears at
11 the present time.

12 My proposal for increasing the basic
13 deduction is based on increase in cost of living and
14 to increase the consumer's buying power. I propose
15 to increase it \$500.00 per person, single person and
16 married, for children from \$300.00 to \$700.00 if
17 qualified for family allowance, and from \$550.00 to
18 \$800.00 if not so qualified. My opinion is that,
19 as perhaps many people know, if you have children,
20 I don't think there is such a great difference between
21 the basic requirements of a child and those of a
22 grown up, because as the child grows you have many
23 expenses, such as clothing, doctors and other things,
24 and they don't get the full use of it as in the case
25 of a grown up. Therefore I believe that these
26 amounts at present are too low.

27 To be in line with these increases in
28 deductions, I propose also that the spouse's earnings
29 be increased from \$250.00 to \$500.00.

30 The last proposal which I find very important



1 is a revision concerning the deduction for medical
2 expenses. At the present time three per cent for
3 medical expenses is deducted from taxable income.
4 In my opinion, for the good of the citizens, they
5 should be able to deduct all medical expenses. If we
6 look at the cost of living today and we take the 1949
7 base as 100, we will find that for health care it is
8 165, doctor's fees at 153, office calls 160, confinement
9 171, dentist's fees 172, and optical care 150. I
10 believe by these increases it would be justified to
11 make full allowance for all medical expenses. I
12 believe that the requirement for receipts should be
13 repealed. In my opinion, if a taxpayer has no
14 expenses for medical care, does not make any
15 contribution to charitable institutions, and so on, the
16 taxpayer would be able to pay a few more dollars tax.

17 Now, in the section of the Act in relation
18 to medical expenses, that is for infirm and blind
19 people, this part of the section applies also as to
20 the three per cent deducted. If the Commission should
21 not recommend or the government should not revise the
22 law to make full allowance for medical expenses, in
23 my opinion I believe there are three paragraphs
24 concerning this which should be taken out. The
25 possibility is that the costs are so high that the
26 allowance has no comparison whatsoever; it may be
27 that these people are in a home. Today people are
28 living also in the fear of having the costs of
29 big medical expenses if anything happens, and for this
30 reason they are taking out sickness insurance, hospital



1 insurance, accident insurance, which is an added cost
2 to the consumer. My opinion and my proposal is that
3 there should be made an allowance in the Act to have
4 the premiums paid to these insurance companies deducted
5 from the personal income tax until such time as they
6 will be able to have sufficient life insurance in
7 Canada which will offset this fear and uncertainty
8 which today the people have by not being properly
9 covered medically.

10 Now, if we want to look at these proposals
11 and to the effect or the results they will have on the
12 people, on the government, on the country, on the
13 economy at large, if there is an increase of \$500.00
14 basic deduction allowance the savings may be about
15 \$60.00 a year. If we take this \$60.00 and multiply by
16 all the taxpayers affected, it will come to quite an
17 amount and it will be extra money that is put into
18 the consumer's hands. If people spent all this money,
19 how many more goods would there be in the demand.
20 If I take an example as to the medical expenses, if
21 we have taxable income of \$1,000.00, three per cent
22 is \$90.00. Now, \$90.00 less taxable income is a
23 savings of tax to the taxpayer of \$10.00. Now,
24 someone may say what is \$10.00. It is not very
25 much, but I think if you consider that this is not
26 just one person, that it can buy a pair of shoes, and
27 if we multiply this by ten thousand or fifty thousand
28 and they all buy these shoes, this will mean
29 manufacturing more shoes and will mean more employment
30 and more income. Somebody will ask: What about the



1 government? If we reduce all these taxes the
2 government will have perhaps millions of dollars less
3 revenue, and we are in debt anyway and if we have
4 less money it will get worse. But I don't think it
5 looks that bad. If we recall recently another report
6 which was issued by the Glassco Commission, there could
7 be a saving of \$20 million on one item if all the
8 jobs held by military personnel were replaced by
9 civil servants. If the government put this into
10 force and saved these millions of dollars and by letting
11 these millions of dollars into the hands of the people
12 it would come back in a larger way. As I remarked,
13 if the people have more money they will spend more,
14 there will be more goods demanded. Now, if that is
15 so, more goods will be manufactured, and it requires
16 more people to produce those goods. It will mean
17 more people will have work not only in the manufacturing
18 industry but in all the other industries connected,
19 and if there are more people working it means more
20 income, and if there is more income there is more
21 tax revenue. If we manufacture more goods the
22 manufacturer will have more profits and there will be
23 more tax revenue.

24 Mr. Chairman, these remarks sound easy, but
25 in my opinion it is easy and possible to do. By
26 increasing the manufacture of goods it will remedy some
27 of the unemployment we have today, it will keep our
28 economy moving, more people can achieve a good living,
29 a decent living, or a better living.

30 By increasing the basic deductions and full



1 allowance for medical expenses it will be equal at the
2 same time to an income tax reduction, but a reduction
3 for the people who need it the most and where it does
4 the most good.

5 We can find new sources of tax revenue by
6 getting the thousands of unemployed people to work
7 with a decent income. However, this can only be done
8 by economic planning, by planning to provide jobs for
9 all able-bodied people. One gentleman who appeared
10 before the Commission remarked that only free
11 enterprise under a capitalistic system can solve our
12 economic problems and provide full employment and
13 provide for a high standard of living. The capitalistic
14 system is nearly one hundred years old in Canada, and
15 our economy is still in bad shape and unemployment gets
16 worse. We have a phony high standard of living,
17 because people have a lot of things, appliances and
18 cars, which they actually do not own. Our national
19 debt seems to get larger, too. To remedy this, I have
20 to say again it is to increase the buying power of
21 the consumers which will be helped by the tax proposals
22 which I have in my memorandum.

23 Mr. Chairman, this concludes my presentation.

24 THE CHAIRMAN: Thank you, Mr. Scharing. You
25 are obviously very much concerned for the common good,
26 and I hope we are, too.

27 In some of your recommendations you are
28 inclined to make things a little difficult for us,
29 because we are required in our recommending to maintain
30 sufficient revenues for the Government of Canada. We



1 have estimated that your recommendation as to
2 increase in personal exemptions would be fairly
3 expensive, amounting to as much as \$900 million. We
4 have also contrasted your recommendations with what we
5 have heard before, and one thing that has been found
6 appears to be a recommendation that no subsidy for
7 medical services^{is} required in payment of premiums if
8 minimum levels of income are attained.

9 These are somewhat in line with our present
10 personal exemptions, and they are closer to it than
11 they are to you. I wonder what support there may be
12 for your proposal of \$1500.00 exemptions for a single
13 person and \$3,000.00 for a married person, and also
14 dependents. Would it be based on a study or anything
15 more than your own opinion?

16 MR. SCHARING: No, it is based on my own
17 opinion. I don't know what the overall saving would
18 be, but I realize it would be quite a large amount
19 which would be involved. But, as I pointed out,
20 perhaps there may be an interim period, if I may mention
21 it like this, where we may have a bit of lower tax
22 revenue for the government until such time as we can
23 decrease our unemployment and bring up our
24 manufacturing.

25 THE CHAIRMAN: It may be that we could
26 stimulate the economy of the country so that the
27 \$900 million came back.

28 MR. SCHARING: I believe so, Mr. Chairman.

29 THE CHAIRMAN: We have not examined that.

30 COMMISSIONER MILNE: I wonder if I could ask



1 Mr. Scharing something just at this point.

2 At the very beginning of your brief you
3 mentioned that you had to make many applications to
4 various departments from time to time during the past
5 few years, and I was just wondering if you had made
6 these applications to the various departments on your
7 own behalf or have you made applications on behalf of
8 other individuals, ^{is,} that have they always been only on your
9 own behalf?

10 MR. SCHARING: No, Mr. Chairman, I made some
11 income tax -- I had some co-workers and so on, whose
12 income tax returns I made out, and if the Department
13 did not accept the figures or wanted some more
14 information, I gave the necessary information required
15 by the Department.

16 COMMISSIONER MILNE: Then it could easily
17 be interpreted that these proposals that you have made
18 have more or less had their roots in problems which
19 have been your own and other people's.

20 MR. SCHARING: Yes, Mr. Chairman. I want to
21 point out that maybe it may look strange a little bit
22 that I as an individual should make a proposal like
23 this which actually will affect all taxpayers in this
24 country. But my point of view is that I do not
25 see my personal interest first, I see it in the interests
26 of all the people of Canada at large to have a better
27 country, a better economy, and all these changes will
28 apply to all of them. It would have had no effect
29 if I had not other returns to make out for people but
30 just for myself; it would have had no influence on



1 these proposals, because through my experience during
2 the time when I filed returns I had different cases
3 in which the law applied, business and property and
4 wage income and all these things. I got to know these
5 complications, and by sometimes not getting the right
6 answer from the person and I went higher and higher
7 and higher and followed the procedures outlined in
8 the Income Tax Act, and I got more experience.

9 COMMISSIONER MILNE: Well, I think, Mr.
10 Scharing, you have answered my question. I just
11 wanted to know if there was more than yourself
12 involved.

13 THE CHAIRMAN: For the record, Mr. Scharing,
14 what is your occupation?

15 MR. SCHARING: I am an electrician.

16 THE CHAIRMAN: Medical expenses, Mr. Scharing,
17 you recommend the abolition of the three percent or,
18 in the alternative, that there should be certain
19 allowances for the blind, and I think to others.

20 Does anyone have any comments with regard
21 to medical expenses?

22 MR. SCHARING: Mr. Chairman, if I may make
23 a remark as far as the infirm and blind are concerned.
24 They are now concerned in the three per cent, but my
25 opinion is that if the Commission will not recommend
26 the three percent, to repeal it, I would strongly
27 propose to take the sections for the infirm and blind
28 out of this and make full allowance for these people.
29 And if the three per cent be repealed, to repeal also
30 the \$100.00 standard deduction, because we will lose



1 some revenues by repealing the three per cent.
2 The \$100.00, if repealed, would do that, too. It may
3 perhaps be that people better able to pay more tax
4 would be in a position to do so than people who are
5 not able to so easily pay the tax.

6 THE CHAIRMAN: Property revenue, page 7.

7 COMMISSIONER GRANT: If I might make an
8 observation there, Mr. Chairman.

9 In the example which you give, Mr. Scharing,
10 you object to the Act as it now stands wherein a
11 return of the property to the owner from its previous
12 state where part of it was rental is regarded under the
13 Act as a disposal or as a sale and therefore the
14 capital cost allowance is recoverable. I suggest
15 that one reason that provision is in the Act is that
16 it has the effect of keeping the value of the property
17 within bounds, once it partly becomes a revenue-
18 producer. If it is reverted entirely to the
19 owner's use, he has to give an account taxwise for
20 the capital cost allowance which has been taken off.

21 MR. SCHARING: Mr. Chairman, do I understand
22 that you mean it may be that half of the property is
23 occupied by the owner or the full property occupied
24 by the owner?

25 COMMISSIONER GRANT: No, part of the property.

26 MR. SCHARING: Mr. Chairman, I want to bring
27 an example of this. I owned property and half of the
28 property was rented, and as my family grew I required
29 these living quarters for my own purposes. I built
30 the house in a way I could use it in this way, and I



1 found out about this section because I did not
2 recapture the capital allowance even although I gave
3 the information to the Department. I did not rent
4 any more, I used it for my own living quarters, and
5 I notified the Department, and this was a letter which
6 was lost, and two and a half years later they inquired
7 what happened to my rental property and I told them
8 I had given the information two and a half years before,
9 and then I received the reassessment for the period,
10 which came to quite an amount, because I had rented
11 it for five or six or seven years. Then I was
12 informed that this was in the Act. At that time I
13 objected to the interest they charged me, not to the
14 tax.

15 THE CHAIRMAN: How do you propose to effect
16 an adjustment on the capital cost allowance if this
17 proposal in paragraph 13 became law, which you say
18 grants an exemption -- an exception, I would think --
19 in the case to which you refer?

20 MR. SCHARING: I believe if the law allows
21 a capital cost allowance the property gets used up by
22 the people living in it and it will not have that
23 value any more; you may have to make repairs. So for
24 this reason I believe the capital cost allowance is
25 allowed. Now, if after some time the property is
26 sold, actually it is a straight business. That is
27 why I consider that the tax can be paid on what has
28 been allowed before, but if the building stays the
29 way it is and the family uses it themselves, actually
30 it is at a standstill for the time being; and if the



1 children grow up and they have their own living
2 quarters, it may be decided to re-rent, have the
3 rental property as it was before. As I stated
4 specifically in my proposal, for the immediate family,
5 wife, husband and children, and I specify this. I
6 mean, this would be a different story if somebody
7 wanted to make a store out of this and say he stored
8 his stuff in there and he may use this as a storage
9 room and have a small business.

10 COMMISSIONER BEAUVAIS: You would delay the
11 recapture proposition until disposal is made.

12 MR. SCHARING: Yes.

13 THE CHAIRMAN: Is there anything else on
14 that matter of property? If not, the next part deals
15 with payment of tax, interest and penalties. We have
16 already heard, Mr. Scharing, I believe, that if the
17 objection is entered interest should not accrue until
18 the objection is disposed of.

19 Does anybody have a query with regard to
20 interest and penalties?

21 COMMISSIONER WALLS: I have a query in
22 regard to paragraph 19 dealing with the cost of
23 appeal.

24 THE CHAIRMAN: You have gone on beyond 17.

25 COMMISSIONER WALLS: No, it comes under that
26 heading. I am on page 10.

27 THE CHAIRMAN: Yes, very good.

28 COMMISSIONER WALLS: I noted that when you
29 were making your opening remarks you quoted, quite
30 correctly so, the fact that if there was no \$15.00



1 fee, then the Tax Appeal Board would be very heavily
2 occupied, because if it did not cost anything everybody
3 would be inclined to appeal. I was wondering what
4 you thought of the alternative method of paying for
5 appeal, which is used in a number of the provincial
6 Acts dealing with arbitration, whereby you could charge
7 \$25.00 with the proviso that if the appeal is won
8 it would be refunded.

9 MR. SCHARING: Mr. Chairman, my remark to
10 this question could be worded just a little bit
11 differently. The Income Tax Act states now that when
12 you file an appeal with the Income Tax Appeal Board
13 you have to deposit \$15.00. If you win the appeal
14 the \$15.00 will be returned; if you lose it, it will
15 be kept by the Board. Maybe I should have made my
16 proposal in this way, that it could not be a deposit
17 of \$15.00 when you file your appeal but if you lose
18 your appeal you will have to pay the \$15.00 fee, and if
19 you win it there is no cost. It would in some
20 instances be a cost to the taxpayer who wanted to make
21 an appeal and did not have the \$15.00 on hand and who
22 would lose out on the time limit to make the appeal.

23 COMMISSIONER WALLS: Well, would he have
24 \$15.00 any more after he lost the appeal than before
25 he started?

26 MR. SCHARING: Mr. Chairman, if I were
27 to make an appeal, taking myself as an example, I
28 may be guilty or I may not be guilty, to word it like
29 this. If I lose, it means I will be required to pay
30 the \$15.00. Now, a decision by the Appeal Board is



1 is not done in a week or two weeks, but I will be able
2 to allow for that \$15.00.

3 A second thing. If the appeal is made on
4 tax which has not been paid yet, I have to pay the
5 first tax amount, too, and I have to allow for all
6 this, and I feel that if I lose it I have to pay another
7 \$100.00, another \$115.00. This will be just a
8 question of who holds the money, whether the government
9 holds the \$15.00 or I hold it.

10 COMMISSIONER WALLS: This is all done to
11 show good faith, a deposit of that nature, don't you
12 think, Mr. Scharing?

13 MR. SCHARING: Yes. As I mentioned in my
14 opening remarks, people who use this procedure, if
15 they don't have to pay the \$15.00 -- because a lot of
16 times people don't understand how the law applies and why
17 this is charged, they are always against the government.
18 Like the gentleman who appeared before you here, he
19 proposed to eliminate corporation tax altogether. I
20 could come with a proposal and say eliminate the
21 income tax altogether. But, Mr. Chairman, I always
22 point out to the citizens who complain about paying
23 taxes all the time that we have to pay taxes because
24 the government needs the money and we will get some
25 services. The taxes are paid by the people who are
26 able to pay and within certain means, and that is the
27 same case here.

28 To mention of good faith, I would say if
29 this be repealed maybe there will be an abuse, but I
30 would propose having a trial of this. If this \$15.00



1 is waived and there is too much abuse, the government
2 of Canada could re-enact the \$15.00 fee to be paid
3 in advance of your appeal. It may be we would have
4 to test good faith or bad faith.

5 THE CHAIRMAN: Mr. Scharing, I would be
6 reluctant to impose on the Tax Department the need
7 to issue receipts in each and every case. I suggest
8 that they might be required to issue receipts on
9 demand, but I think that I as a taxpayer find I have
10 no need for receipts, I am satisfied with my cheque,
11 and I don't know why under these circumstances the
12 Department should be required to issue me a receipt.
13 I am not convinced by what you say; I don't think at
14 the moment there should be a statutory requirement to
15 issue receipts in all cases.

16 Would you like to say something more to that?

17 MR. SCHARING: Mr. Chairman, I perhaps at
18 first considered, too, that this may add perhaps a
19 little bit more work to the employees of the Income
20 Tax Division, but I believe as long as you don't have
21 difficulties in these cases with the Revenue Department,
22 we don't consider this so much, and I would leave it
23 up to the Commission to use their judgment on this.
24 It may be, like one of the other proposals, an advantage
25 and it may not be so.

26 THE CHAIRMAN: Well, we have received your
27 submission with a great deal of interest, Mr. Scharing.

28
29 --

--

--



C/AG/je

1 I think you have satisfied
2 all the questions. It has been sufficiently complete
3 that we have not needed to press you very far. One
4 can understand the points you have raised
5 quite easily, and we must consider including in our
6 final report the things that you have concluded.

7 MR. SCHARING: I don't know if I mentioned
8 this before. I appear before the Commission as an
9 individual, but as you see, Mr. Chairman, my proposal
10 takes into account all our taxpayers and citizens in
11 Canada as well as our economic problems in our country
12 these days. Perhaps people might think if an
13 organization or a corporation is making a brief that
14 it may have perhaps more weight, but I am sure, if it
15 may have been required or if I had wanted to, I could
16 have made my proposals as a petition to the Commission
17 on behalf of the citizens of Canada, and many of them
18 would have liked to sign and enforce my proposals as
19 made to the Commission. As you know, there would be
20 no doubt that I could get 10,000 or 20,000 people to sign
21 it.

22 I thank you for your remarks on this, and
23 I hope that some of my proposals you will find good
24 enough to take into your recommendations to our govern-
25 ment.

26 THE CHAIRMAN: Mr. Scharing, I assure you
27 that we are delighted to have a representation from
28 an individual, and the submission you have made will be
29 considered just as carefully as those put forward by the
30 largest organizations in Canada.



1 Furthermore, let me say that you have
2 not indicated to us that you need any assistance.
3 You have done very well by yourself.

4 We will stand adjourned for five minutes.

5 ---Recess.
6

7 THE SECRETARY: Mr. Chairman, we have now
8 officers of the Association of University Teachers.
9 With us this morning are Prof. Kenneth Byrd, who will
10 be speaking to the brief, Professor D.R. Patton,
11 Dr. Stewart-Reid and Professor A.R. Marshall

12 I would like to enter this brief on behalf
13 of the Canadian Association of University Teachers
14 in the record as Exhibit No. 31.

15 EXHIBIT NO. 31: Submission of the
16 Canadian Assoc-
17 iation of Univer-
sity Teachers.

18 SUBMISSION OF THE
19 CANADIAN ASSOCIATION OF UNIVERSITY
20 TEACHERS

21 APPEARANCES:

22 Professor K. Byrd,
23 Professor D.R. Patton,
24 Dr. Stewart-Reid
25 Professor A.R. Marshall

26 THE CHAIRMAN: Thank you Mr. Secretary.
27 Good day Professor Byrd and gentlemen. Let me
28 introduce the Commissioners. I will not mention their
29 names, we are all labelled, as you see, and we are very
30 glad to have you today.



C-3

1 Do you in fact represent the university
2 teachers of all universities, and do they trust McGill
3 to appear on their behalf?

4 PROFESSOR BYRD: We represent all
5 universities, and it is purely that I myself and two
6 of my colleagues are here, but we are not representing
7 McGill as such, but all universities as such. The
8 Secretary of the Canadian Association, Dr. Stewart-
9 is here.

10 DR. STEWART-REID: There are 40
11 associations represented.

12 THE CHAIRMAN: Now, we sometimes have
13 a summary given to us by our visitors. Sometimes they
14 like to add to what they have already submitted, and
15 we would be very glad if you would care to do that.

16 If you have said all there is to say in the
17 written submission which we have read and reviewed, we
18 are quite prepared to proceed to ask questions.

19 PROFESSOR BYRD: It seems to me that there
20 is some confusion as to the position of university
21 professors in employment, because I have evidence, which
22 has come to me this morning, that apparently, for
23 instance, the Canadian Broadcasting Corporation, if
24 a professor actually takes a single appointment to make
25 some statement through the Broadcasting Corporation they
26 require, they indicate, they send in a T-4 return to the
27 professor, who has to make a return of the expenses
28 which he has incurred in getting to the assignment,
29 and they point out in a letter which I have before me
30 that these travelling expenses -- well, they are required



1 to officially report them, and refer to Section 5 (1)
2 of the Act, that they will be officially and legally
3 allowed as a deduction from the remuneration received.

4 This is of interest to me, because I don't
5 think Section 5 (1) of the Act allows a deduction
6 of this kind. I will read this paragraph. They say:

7 " The Income Tax Act and regulations
8 thereunder are quite specific on items to be
9 reported as income. (N.B.) Section 5 (1))
10 briefly, amounts which have been reimbursed for
11 travel expenses, that is payments made on the
12 basis of a claim supported by hotel receipts
13 et cetera, are not considered to be income.
14 However, all other travelling allowances except
15 where specifically excluded are income.
16 Naturally, expenses are deductible (Sec.11)
17 and in this instance it would appear that you
18 would benefit when submitting your return."

19 Now, the whole claim under this brief is
20 that in actual fact university professors are not
21 allowed to deduct these expenses, and the Canadian
22 Broadcasting Corporation assures us that it is to be
23 allowed.

24 THE CHAIRMAN: Well, Section 5 (1), as
25 I read it says specifically --

26 PROFESSOR BYRD: Yes, and it goes on to say,
27 "except travelling expenses".

28 COMMISSIONER PERRY: What particular
29 travelling expenses would these be from the C.B.C.?

30 PROFESSOR BYRD: Getting to the assignment,



1 and living expenses if away from home.

2 COMMISSIONER PERRY: These would have been
3 met by the person himself?

4 PROFESSOR MARSHALL: This was a job in Toronto
5 done by somebody from McGill University.

6 PROFESSOR BYRD: The travelling expenses
7 are referred to under Section 1(b)(1).

8 THE CHAIRMAN: I was wondering which of the
9 small Roman numerals under (b) would take care of your
10 situation.

11 PROFESSOR BYRD: None of them does.

12 THE CHAIRMAN: I was having a hard time
13 finding them.

14 PROFESSOR BYRD: No, none of them does
15 take care of it. In my brief I was paying particular
16 attention to the latter part of this Section, which
17 takes care of construction employees.

18 THE CHAIRMAN: You have no way of knowing
19 whether or not such treatment as suggested by the
20 C.B.C. is accepted by the Department?

21 PROFESSOR BYRD: No sir. I would say I
22 have a lot of correspondence from individual professors
23 complaining about these things. In the brief I have
24 given an outstanding case of a professor from Memorial
25 University in Newfoundland, who in the end had to pay
26 all the costs of getting from Newfoundland to the
27 university in Saskatchewan. There he delivered four
28 weeks of lectures in summer employment. His income was
29 \$450. It cost him over \$300 to get to Saskatchewan and
30 have living expenses there. He paid \$170 income tax.



1 The net result was that he paid \$570 tax, and had
2 \$400 income.

3 THE CHAIRMAN: I read that with interest,
4 and I felt very sorry that he did not negotiate the
5 arrangement so as to have his expenses paid, and receive
6 a lesser salary.

7 COMMISSIONER GRANT: Is it possible that
8 this distinction is drawn in connection with this case
9 you refer to with the C.B.C., that there is a specific
10 item of exception? That item is set forth, and allowed
11 as a specific item, whereas in some other cases, the
12 fee does not mention the travelling expenses, but it
13 is up to the person who performs the services to pay
14 his own expenses?

15 PROFESSOR BYRD: Well Mr. Chairman, that
16 is one of the points which I think we need to stress
17 very definitely. The case has always been made that
18 it would be possible to get the university to remunerate
19 on two bases. If it is a certain fee for a series
20 of lectures, it could divide that into travelling
21 expenses, which could be regarded as the fee. First
22 of all, I consider this entirely inequitable, because
23 I don't think the employee should have to bargain, or
24 make arrangements in this way. Our whole thesis
25 is that the professor is a professional man. He is,
26 to my mind, carrying on his profession very definitely
27 in taking up work of this sort. He alone makes the
28 decisions in regard to the expenses that he will have
29 to incur. He incurs expenses which quite obviously
30 are connected very closely with the work involved. The



C-7

1 expenses should be allowed as a deduction from the
2 income, regardless of whether you actually divide the
3 income into an income, and the balance as fees. I have
4 had it argued with me very definitely that even if
5 we divide this fee and apportion part of it as a refund
6 of expenses, these expenses are still taxed under
7 Section 5, because it is only travelling expenses
8 incurred in these particular circumstances that are
9 allowed as a deduction under Section 5. The whole
10 of this has to be reported as income, and is taxable,
11 but in any case, is it right and equitable that
12 university professors, who know nothing about these
13 things have to ask that it be divided?

14 THE CHAIRMAN: No, Professor Byrd, I
15 accept what you have to say readily. I don't think
16 that it should be necessary to resort to a specific
17 form in such an outstanding case as this in order to ef-
18 fact substance. That is if one expects the substance,
19 as you put it forward. I am not quite sure. I
20 am very glad you brought it up, because you have
21 Professor Patton along today. Perhaps semi-Professor
22 Patton. Are you still in public practice?

23 PROFESSOR PATTON: Actually they don't
24 call me a semi-Professor, but I couldn't help remarking
25 at the earlier comments you made as to whether Canada
26 would allow McGill to speak for them. It is no secret
27 that this gentleman and I went through our college
28 career together.

29 THE CHAIRMAN: That won't do you any good
30 at all.



1
2 PROFESSOR PATTON: Well, this is a sort
3 of old home week.

4 COMMISSIONER PERRY: With the rest of the
5 Commission it will be a positive handicap.

6 PROFESSOR PATTON: But just to get back
7 to this summer school. This is quite a big thing at
8 the university. There are a great many summer schools
9 being done, and a great many visiting professors
10 being brought in from other parts of the country,
11 particularly for the purposes of new faces, and to
12 change the instruction to the students. We have a
13 summer school every year in accounting. We had a man
14 from the University of British Columbia here last
15 year, and I am sure he must have lost money on the
16 transaction, but it is being done all the time.

17 THE CHAIRMAN: You, as both a professor
18 and a person in accounting, would or would not subscribe
19 to the idea that a professor working full time for
20 a university should be considered under the laws as a
21 man working full time in a profession. Would you think
22 that was sensible?

23 PROFESSOR PATTON: I would, and I also agree
24 that any other activity that he carries on should be
25 in the nature of a business. There are a great many
26 professors who are able to do that, and have to supplement
27 their incomes with other work. There are a great many
28 things a professor has to do to keep up with his
29 profession, and that is one of them, to keep living.
30 Another, of course, is to travel and take time to research



his subject, all of which is a part of maintaining his position. All of this, I think, is very definitely a part of his professional experience, and he is really the person who makes the decision. He does not report to anyone, except for administrative purposes. He is the man that is the professional, and I think there is no question about that. He ranks, as some of us in business would rank, as the man who makes the decisions, the professional man.

COMMISSIONER PERRY: Mr. Chairman, I wonder if we could clear up this point of the C.B.C.? There may be something that we are missing.

Was the situation here that the person involved was able to recoup his expenses from the C.B.C.?

PROFESSOR MARSHALL: The circumstances, as I understand them, were that the person was to go to Toronto, was paid for the transportation to Toronto separately, and was also paid an amount of \$75 of which \$50 was living expenses in Toronto, hotel room, meals, transportation, et cetera.

COMMISSIONER PERRY: Was this a blanket amount?

PROFESSOR MARSHALL: Yes.

THE CHAIRMAN: So he included only \$25 in his income, is that correct?

PROFESSOR MARSHALL: The T-4 was sent in the amount of \$75, and it was returned saying that it should be only for \$25, and this letter that we have



1 is the reply, returning the T-4 for \$25, and saying
2 "You should include the whole \$75."

3 PROFESSOR BYRD: I would think that the
4 \$75 is taxable.

5 COMMISSIONER PERRY: But the normal
6 arrangement would be that the C.B.C. compensate this
7 chap for his out-of-pocket expenses, and there would
8 be no question of taxability under those circumstances
9 whatsoever.

10 PROFESSOR BYRD: I think that is questionable.

11 COMMISSIONER PERRY: I don't think there
12 is any doubt whatsoever about it.

13 PROFESSOR BYRD: It is quite true that
14 in our summer school now we do this, and it is not
15 questioned. I have adopted the arrangement with
16 McGill by which we add expenses, but certainly when
17 I took this up with McGill at the time -- originally
18 we were only paid a fee -- I took it up with McGill
19 and said "Can we divide this fee into two different
20 sections?". The comptroller or the person concerned,
21 pointed out then that he doubted very much if that
22 would make any difference, because we were paid a fee,
23 and the fee was not allowed under the Act. No
24 travelling expenses were chargeable as a deduction from
25 that. It may be the case in practice. I think if
26 the university takes the initiative the income tax
27 authorities will not challenge it, but it is only one
28 particular area.

29 COMMISSIONER PERRY: Quite. It is my
30 understanding that where there is an employer/employee



C11

1 relationship and the employee is reimbursed for
2 necessary travelling expenses, this is not taxable,
3 and never has been.

4 PROFESSOR BYRD: That is simply because
5 the employee is undertaking an expense on behalf of
6 his employer.

7 COMMISSIONER PERRY: This would have been
8 the situation with the C.B.C. For that one engagement
9 the professor was an employee. However, all I wanted
10 to do was to clear up this one point.

11 PROFESSOR BYRD: They quoted Section 5 then.

12 COMMISSIONER PERRY: I think mistakenly..

13 COMMISSIONER GRANT: The income tax
14 authorities would be concerned only with the T-4, would
15 they not?

16 PROFESSOR BYRD: That is quite right.

17 COMMISSIONER GRANT: So it really becomes
18 just a matter of the method of reporting?

19 DR. STEWART-REID: I can tell you that a
20 great number of university professors have refused to
21 make such an arrangement. Secondly, the staff is
22 composed of course of people, perhaps 75 per cent of
23 the staff are people who are already resident on the
24 campus, and to make two different practices for maybe
25 a visiting professor, and the others on a salary, would
26 probably result in a great many difficulties. So
27 whether they are justified or not, a great many
28 universities have refused to enter into an arrangement
29 of this kind.

30 THE CHAIRMAN: I would have thought it was



C-12 1 quite proper and in keeping with what they were endeavouring
2 to do to pay them a fee and look after their expenses.

3 COMMISSIONER GRANT: Would I be presumptuous
4 in suggesting that your organization might very well
5 bring out some standardization in practices?

6 DR. STEWART-REID: Yes. Perhaps we are
7 our own worst enemies. Many of us assume that this
8 business of moving to another campus is part of our
9 professional training, and must go on all the time.
10 In some cases promotion, or another degree, depends
11 on this sort of thing.

12 PROFESSOR BYRD: Mr. Carter indicated
13 that he is in some doubt as to our main thesis of this
14 professional status, but surely the whole point is that
15 in the case of a university professor who during the
16 summer months, and not necessarily during the vacation
17 period, decides that he will go to another university
18 to give a series of lectures, or take up research.
19 He is doing something which would be regarded as wholly
20 desirable by his own university. They obviously
21 encourage this inter-communication between the
22 universities. The university professor who is a
23 truly dedicated university professor is giving his life
24 to endeavouring to improve, to broaden his influence,
25 and to educate as widely as possible, and genuinely
26 he is not trying to raise funds. During the summer
27 months he is doing what is his duty to do, and what
28 any professional man will endeavour to do in order to
29 carry out the main objectives to which he has dedicated
30 his life.



C-13

1 So, as any university will encourage him
2 to do this, to go overseas, take part in congresses,
3 he will do this, but his own university won't compensate
4 him. He has to undertake these assignments on his
5 own initiative, and this is where the autonomy comes
6 in. Last year, for example, I had to attend three
7 congresses, the International Congress of Accountants
8 in New York. It was a world-wide congress and it
9 was quite expensive. The fees for entering it
10 were very heavy. The cost of living in New York was
11 very heavy. I didn't get a penny of compensation,
12 and I certainly shan't be able to charge it against
13 my income, but in my case I might have had an alternative
14 if I had an outside income. The average university
15 professor has no outlet at all, except possibly
16 by writing books. So my whole thesis is that he is
17 a professional man, thoroughly trained in a high
18 standard of skill, and these decisions that he makes
19 are decisions, just as those of any other professional
20 man in the carrying out of his profession and conse-
21 quently the expense he incurs should be allowed him.

22 THE CHAIRMAN: Of course, your theory is
23 directed to teaching professors, but your problems may
24 relate to other than professors. One occupation that
25 my attention was drawn to the other day was that of
26 judges, who are paid salaries, and who have no other
27 occupations as a rule, and who incur expenses, such as
28 gowns like yours, and books beyond those found in the
29 courtroom.

30 You have thought of this more than we have.



1 Are there any other occupations that you are aware of
2 that should be treated as a business, even though the
3 people are employed?

4 PROFESSOR BYRD: There would be the case
5 of a medical man not in practice. It is a principle,
6 I think, that could be quite definitely accepted and
7 introduced into the Act, that it is obviously possible
8 to make some discrimination in regard to the different
9 types of employment, and therefore in those cases I
10 would say the justification is just as great. Obviously
11 I had to direct myself in this case to the particular
12 case of the university professor.

13 THE CHAIRMAN: Have you thought as to how
14 wide this might extend, and just how it might be
15 circumscribed? I suppose chartered accountants who
16 are employed might have some case, and lawyers that
17 are employed?

18 PROFESSOR BYRD: In the majority of cases,
19 Mr. Chairman, I think you will find that the chartered
20 accountants attending congresses normally have the
21 fees paid by the firm, and in many cases there is a
22 normal outlet for expense in that way.

23 PROFESSOR PATTON: They usually don't have
24 the same problem. The Income Tax Act assumes that
25 a person can have full-time employment with one
26 employer, and at the same time have employment with another
27 employer. Is that right? Is that an acceptable
28 thesis?

29 THE CHAIRMAN: The relationship of employer
30



C-15

1 and employee may be extended beyond one employer. Is
2 that your question?

3 PROFESSOR PATTON: Well, if he is full time.

4 THE CHAIRMAN: I would think that there
5 are many persons who work for more than one employer.
6 Moonlighting has become a very common phrase, or term.

7 COMMISSIONER GRANT: The authorities are
8 concerned with the amount of income he reports, not
9 with how many people he works for.

10 THE CHAIRMAN: Mr. Patton's point, of
11 course, is that there must come a time when a man ceases
12 to be employed, and becomes a contractor.

13 COMMISSIONER PERRY: This would be a
14 question of the individual relationship under each term
15 of employment.

16 PROFESSOR PATTON: I think that in the case
17 of the professor this activity is carried on in his
18 spare time, which is usually in the summertime,
19 and in that particular area at least he is in business,
20 even if it is only one additional assignment, but
21 usually there are more than one.

22 PROFESSOR BYRD: Certainly these occasions
23 occur right throughout his year. He is liable
24 to give these individual lectures, obviously.

25 THE CHAIRMAN: You have no difficulty when
26 that occurs, do you, because it does become a business,
27 and as such expenses are deductible?

28 PROFESSOR BYRD: No, this is the whole point.
29 If he goes away for an assignment of this sort, if the
30



1 university does not reimburse him he loses his expenses.

2 COMMISSIONER WALLS: How would you
3 differentiate between him going say to Europe on a
4 trip for his own pleasure?

5 PROFESSOR BYRD: The same as any other
6 professional man. A professional man wouldn't think,
7 I imagine, of claiming a trip to Europe for his own
8 pleasure?

9 COMMISSIONER PERRY: The Chairman
10 touched the heart of this problem in suggesting that it
11 is awfully difficult to say what the limits ^{should be} should be
12 for this kind of recognition under the Act, because
13 nearly every person fully employed on a salary can
14 think of an expense, perhaps modest, incurred during the
15 week which was related in a direct way to his employment,
16 for which he received no reimbursement. So that
17 you really start, and one makes some fairly broad
18 assumptions for the purposes of argument, at the fairly
19 extreme cases, where there are some obvious expenses
20 related to the employment, and you run all the way
21 through all kinds of hairline distinctions to the
22 person who has one such expense a year.

23 PROFESSOR BYRD: My first paragraph
24 actually makes my first suggestion. You see, in the
25 United States it is possible to classify business.
26 A person in employment is still regarded as carrying on
27 a business under certain circumstances. If it were
28 possible to take the case of a judge, such as the
29 Chairman referred to, or a university to professor
30 relationship, to say that these cases are in line with



C-17

1 cases of carrying on a business -- if you could define
2 in Section 139 (1)(e) that these particular cases
3 are regarded as coming under this heading, then of
4 course you have no problem. But the question is,
5 are these legitimate exceptions or for carrying on a
6 business and earning income, and if so they would be
7 allowed.

8 COMMISSIONER PERRY: I have discussed this
9 with the U.S. officials, and I have never had the
10 impression that they have no problem.

11 PROFESSOR PATTON: The more important
12 submission is not the spare-time activity of the
13 professor, but the fact that the professor is a
14 professional in business.

15 DR. STEWART-REID: And he must engage
16 in these activities in order to remain an effective
17 member of his profession.

18 COMMISSIONER PERRY: I think I could argue
19 that I have to read a certain number of books a year
20 in order to carry on in my job, although I am
21 salaried. I have to buy these books myself. I am not
22 arguing against you, but suggesting that there are
23 some finely shaded areas.

24 THE CHAIRMAN: Construction workers travelling
25 away from home would be a narrow application, but it
26 would be easy to put that kind of thing into the
27 Act, and put you into business. What worries me,
28 of course, about putting you into business under the
29 Income Tax Act is that there are a number of other
30 people who would have claims for that. If one prescribes



1 that a university professor has the right to deduct
2 certain expenses, I think it would have to be
3 necessary to the earning of an income.

4 What I want to ask you is, would the word
5 "necessary" spoil your case?

6 PROFESSOR BYRD: No. Surely the word
7 "necessary" would be right. What is necessary? You
8 are not going to show that this expense earned exactly
9 that amount of income, but the professional man
10 makes the decision as to how best he can carry on his
11 profession. The word "necessary" would be presumably
12 all right, because I imagine it would be determined
13 in that term. After all, you would make the same
14 interpretation for any professional man.

15 PROFESSOR PATTON: The Act makes reference
16 to a professional man. They don't define it.

17 THE CHAIRMAN: If there was a special
18 provision made in Section 11 for university teachers,
19 you believe that that should specify the types of
20 items to be deducted, or should it be an omnibus section,
21 saying all those expenses necessary for the earning of
22 a living of the teachers, and if one specified the
23 items, I wonder which ones they should be?

24 Looking down this list of yours, I'd question
25 the necessity of some of these. Not all.

26 PROFESSOR BYRD: I could add two others.
27 All are not specified there. Professor Patton mentioned
28 one this morning, the cost of clerical assistance,
29 entertaining expenses, which are very necessary in the
30 case of visiting professors. If the university professor--



1 I am thinking of genuine cases here, which certainly
2 occur. You entertain a visiting professor. You are
3 host to meals with him at the Faculty Club and so on.
4 These costs obviously are expenses which a man in the
5 practice of his profession would be allowed to incur.

6 THE CHAIRMAN: I have difficulty in staying
7 with you on entertainment. Entertainment is usually
8 supported by the question of drumming up business.
9 In your case it is maintaining professional associations
10 so to speak, to maintain your learning at the necessary
11 level.

12 PROFESSOR BYRD: It is definitely a
13 professional expense incurred by a man who is endeavouring
14 to carry on his profession to the best of his ability.
15 I agree with you that sometimes it is quite difficult
16 to draw the line between obviously the expenses which
17 are a pleasure and the expenses which are necessary,
18 but certainly these cases do occur.

19 THE CHAIRMAN: Would any of the rest of you
20 like to get in on this? I am sure somebody would like
21 to challenge the robes. I am just wondering if that
22 is altogether fair? I know that people who wear uni-
23 forms get deductions in some cases.

24 PROFESSOR BYRD: You will realize that this
25 is one of the concessions that the Royal Commission
26 in England did grant to the Association in England. I
27 agree that the cost involved is minor.

28 THE CHAIRMAN: I think it is a benefit, rather
29 than a cost.

30 PROFESSOR BYRD: There again we exercise



1 autonomy. Three-quarters of our professors never wear
2 robes. I always do myself. There again it is a part
3 of the dignity of your office, which requires this
4 to my mind, and the cost of the robes undoubtedly is
5 a cost incurred in the cost of carrying on your
6 business, or profession, and certainly it is legitimate,
7 and if you could see my robes at the moment you would
8 see that they certainly depreciate.

9 COMMISSIONER WALLS: Yes, but do they not
10 preserve your clothes? You see, I am a farmer, and
11 if I put on a pair of overalls --

12 PROFESSOR BYRD: They would be allowed in
13 the States. These things are very carefully spelled
14 out in their Act.

15 THE CHAIRMAN: I think it is very unfair.
16 I am wearing out my suit right now, and I won't
17 be allowed a deduction.

18 COMMISSIONER WALLS: Mostly in one place.

19 PROFESSOR MARSHALL: The university
20 professor has to wear presentable clothing, in addition
21 to protecting it from the wear and tear -- just
22 chalk on the board, and rubbing against the board does
23 a fair amount of damage. I doubt whether you, sir,
24 as a farmer would wear a good business suit under your
25 overalls.

26 COMMISSIONER WALLS: I would be lucky to own
27 one.

28 PROFESSOR BYRD: I would like, if I may,
29 just to prevent this appearing too trivial, point out
30 that in actual fact we are concerned with very considerable



1 expenditure in the major features to which we refer.
2 I have many letters here from professors who are very
3 genuinely worried because they have earned quite a
4 large amount of income, and incur very large expenses,
5 which are not going to be allowed. It is not things
6 like the robes. It is the possibility of preventing
7 cases, running into hundreds of dollars, like the
8 professor from Newfoundland.

9 COMMISSIONER WALLS: As has been mentioned
10 previously, it is the trouble of being able to define
11 it, and to keep it separate from other associated
12 claims. Now, if that can't be done, why can't you
13 make it a term of employment when you work for the
14 C.B.C., or go to a summer school, that your remuneration
15 be clearly defined to cover your expenses, and don't
16 have the Tax Act do it?

17 PROFESSOR BYRD: I think that is something
18 that had better be looked into, because I don't think
19 the Act would legally exempt that income, and secondly
20 this throws the onus on each individual professor in
21 this country. Most of them have no idea at all in
22 regard to income tax. They undertake the assignment,
23 and incur the income before they know about expenses.
24 You could say we could circulate all universities, and
25 request them to make an arrangement of this sort, but
26 they object of course.

27 THE CHAIRMAN: And even if they did come
28 within the Act, you still wouldn't be satisfied?

29 PROFESSOR BYRD: If the Act were altered
30 to make sure that this would definitely not be taxable,



1 but you see, I think the problem is to make it possible
2 for a university professor teaching in his own profession
3 to be regarded as a man in practice. Surely there is
4 a very real discrimination between the university
5 professor in employment by an authority who has any
6 responsibility to academic decisions beyond ordinary
7 master-servant relationships?

8 THE CHAIRMAN: Have you considered whether
9 some of these items to which you have referred, such
10 as I think the teaching, or the receiving of teaching
11 during sabbatical years, or during refresher courses,
12 might not well come within the general scheme of the
13 Act to be capital outlays, the same as teaching in
14 the normal course, or receiving of teaching I mean?

15 PROFESSOR BYRD: There is obviously. That
16 is the distinction that is always made. In the
17 States they have a very definite distinguishment between
18 the refresher courses of this sort, undertaken to
19 meet the requirements of the employer, without raising
20 the employee to another status, and the expenditure which
21 is of a capital nature goes to improve your status. That
22 would be a reasonable decision to make, that expenses
23 of this sort would be allowed when necessary to keep
24 pace with changing conditions to maintain your status.
25 The refresher course required to get a degree of higher
26 status.

27 I must say that in my brief there is one
28 typing error. It is in paragraph 7 on page 17 at the
29 very top "are for the maximum education". It should be
30 "are for the minimum education required by the employer".



1 PROFESSOR PATTON: There was a question
2 of the important items, and the different amendments
3 which should be made. I would think that the important
4 items are the status of the professor as a whole.

5 THE CHAIRMAN: The status of the professor?

6 PROFESSOR PATTON: As a profession as a
7 whole, and statement No. (a), expenses for professors
8 attending conventions should be allowed. Other
9 expenses for other employment and clerical assistance
10 where it is actually necessary and expended.
11 In my connection with the professors and their outlays
12 those are the major items.

13 THE CHAIRMAN: Clerical assistance for what
14 purpose?

15 PROFESSOR PATTON: Well, a professor is
16 engaged partially for what he produces in the matter
17 of articles, most of which are not paid for, and very
18 often staff is not provided, and so he has to have
19 work done. That would be merely out-of-pocket
20 expenditure.

21 THE CHAIRMAN: You rate those as the most
22 important items?

23 PROFESSOR PATTON: I would think so. Those
24 occur more frequently, and are certainly justified.

25 PROFESSOR BYRD: Certainly the major
26 contention is the professional status I think.

27 COMMISSIONER MILNE: I was wondering about
28 (f), the costs of research work^{that}/are not reimbursed.
29 That seems such an important field at the moment.

30 PROFESSOR BYRD: I agree. Research expenses



1 can be very considerable. Of course, in practice a
2 great deal of them will be reimbursed, but again the
3 dedicated teacher will be doing research, and increasing
4 expenses of this type all the time, and if he is not
5 on a research project it won't be reimbursed. It ties
6 in with what I consider is the vital point, that a
7 professor doing his job properly will incur these
8 expenses all the time, and I think they should be allowed
9 to him, because they won't be reimbursed if they are
10 not part of a particular project.

11 DR. STEWART-REID: I would suggest that
12 from the correspondence in my office this expense is the
13 one that occurs most often, and it occurs in the
14 largest sum usually. I have had reported to me cases
15 in which the inability to pay for certain expenses
16 has actually worked a very severe hardship on people.

17 THE CHAIRMAN: But in a word, what do they
18 expend money on for research purposes—Staff? Supplies?

19 DR. STEWART-REID: The biggest item I would
20 think is travelling to a place where research material
21 is available, and using it there. In my own case,
22 for example, my field when I was teaching was 17th
23 century puritan philosophy. There was only one place
24 to do that work, and that was in England, and it was
25 extremely expensive to do that. On occasion those of us
26 who are in faculties of the social sciences write books
27 to help research, but we never expect to recoup our
28 expenses by royalties, and never do.

29 PROFESSOR BYRD: A great deal of the
30 assignments undertaken is not remunerated. It is a



1 strange thing to me how many journals solicit the material,
2 and expect the university professor to spend hours
3 and hours doing this with no remuneration attached, and
4 the work he puts in obviously does entail a great
5 deal of money, and there are no expenses, and it all
6 comes out of his ordinary professor's salary.

7 COMMISSIONER GRANT: Those would be
8 specialized publications, and the circulation would be
9 very low?

10 PROFESSOR BYRD: Yes, he is judged by these.
11 His own university would, in considering if he was
12 doing his job well, look at these. Every year you
13 have to list these articles, but you are not remunerated
14 for them at all.

15 THE CHAIRMAN: Well, thank you very much
16 indeed for coming to see us today and putting forward
17 your thoughts on this matter so very clearly. I think
18 we have overlooked nothing that you have given us.
19 I can assure you that the matter will receive con-
20 sideration. I certainly can't assure you as to what
21 conclusions we are going to come to.

22 I see that you apparently have a file of
23 expenses not allowed to various professors. While
24 we don't want to pry into matters which are private,
25 if you would care to make that available to our
26 research people it would be very helpful.

27 PROFESSOR BYRD: May I just read a
28 legal case I have here? This was a case of a physician
29 and surgeon of the University of Toronto engaged by the
30 University of Michigan for a series of lectures at \$1,200.



1 Train fare, board and lodging, \$520. No written contract
2 was offered as evidence by the Appellant to indicate
3 what the understanding of the university was, but
4 it would be my opinion that they were paying for the
5 lectures to be delivered by the Appellant, and were
6 not concerned with any expenses which might have to be
7 incurred by him in coming to the university, or for
8 his board and lodging while there.

9 That was from the finding in the actual case
10 of Dr. W.E. Blatz versus the Minister of National
11 Revenue, October 20th, 1951. There is the case I
12 refer to in here of Professor English, who was not
13 allowed any of the cost of his study. That is something
14 we have mentioned. Any charges against his income for
15 the cost of his own study at home. That is now allowed
16 in England, as a result again of the English Association's
17 brief of some years ago to the Royal Commission, and
18 quite obviously he does use a portion of his home very
19 considerably. He has a study at the university, but if
20 you knew our own university here, you would realize that
21 in many cases it is not a study where the professor
22 is alone. He has others with him, and of course he
23 will use his own study at home to a great extent.

24 --

25 --

26 --
27
28
29
30



"C"
RL/bg

1 And, of course, if he is impracticable he is allowed to
2 charge; and whenever I do an outside job as a
3 chartered accountant I am allowed to charge against the
4 resultant income a portion assigned to the home.
5 That is an expense that can never be shown by the
6 professor. There was the case where Professor English
7 made the request and it was refused.

8 THE CHAIRMAN: Thank you very much. We will
9 certainly look at the cases to which you refer. If
10 you would care to send us any further evidence you
11 may have to amplify what we have already received, we
12 would be glad to get it. Thank you very much.

13 COMMISSIONER GRANT: Mr. Chairman, before we
14 adjourn, perhaps you would permit me to make the
15 observation that there was an affiliation which has
16 not been mentioned, and perhaps I may be so bold as
17 to mention that Mr. Marshall received his first job
18 in the company with which I am associated, and it gives
19 me a great deal of pleasure to see him in the position
20 he is today.

21 THE CHAIRMAN: It probably gives him a great
22 deal of pleasure, too.

23 Mr. Secretary, is there any business before
24 introducing our visitors?

25 THE SECRETARY: No, sir. Mr. Chairman,
26 you have before you a submission which has been
27 presented by the Great Britain and Canada Investment
28 Corporation. Mr. J.T. Kenward, C.A., who is Director
29 of Investment Secretariat Limited, is going to speak
30 to this brief on behalf of the Great Britain and Canada



C-2 1 Investment Corporation, and I now enter it as Exhibit
2 No. 32 into the records.

3 THE CHAIRMAN: Thank you, Mr. Secretary.

4 ---EXHIBIT NO. 32: Brief of Great Britain
5 and Canada Investment
6 Corporation.

7 SUBMISSION OF GREAT BRITAIN AND CANADA
8 INVESTMENT CORPORATION

9 APPEARANCES: Mr. J.T. Kenward, C.A.
10 Neil B. Ivory

11 THE CHAIRMAN: Good day, Mr. Kenward and Mr.
12 Ivory. We have read what you have submitted with
13 considerable interest, we have discussed it, and we
14 have a few questions for you.

15 Before putting questions, is there anything
16 you would like to add to the written document you have
17 sent in, to amplify it, summarize it or say anything
18 to it?

19 MR. KENWARD: I believe for the record
20 we need to state quickly the conclusions and
21 recommendations. Can we eliminate that?

22 THE CHAIRMAN: It is not at all necessary,
23 but we would be very glad to hear them if you would
24 care to do that.

25 MR. KENWARD: This submission is concerned
26 with the taxation of Canada closed-end investment
27 trust companies under Section 69 of the Income Tax
28 Act. The seven main proposals of this submission
29 are:

30 (1) The freedom of management



C-3

1 policies of an investment
2 company should not be
3 restricted by government tax
4 legislation concerning sources
5 of income.

6 (ii) The burden of responsibility
7 for taking tax decisions should
8 be shifted from the investment
9 trust managers to the individual
10 shareholders who in effect are
11 the real beneficial owners of
12 the investment.

13 (iii) The right to acquire and retain
14 foreign investment is essential
15 to provide diversification of
16 investment necessary for an
17 investment company. We can go
18 into that in quite detail later
19 on.

20 (iv) The maintenance of foreign
21 investment is necessary to
22 preserve a financial community
23 from becoming ingrown to its
24 own, and, ultimately, the
25 national disadvantage.

26 (v) Investment companies should be
27 allowed a deduction from gross
28 income from all dividends paid
29 and should be taxed at normal
30 corporate rates on the un-



C-4

distributed balance of current
years' income, for which there
is, of course, precedent already.

(vi) Shareholders of investment

companies should be allowed a
dividend tax credit on only that
part of dividends received which
represents underlying dividends
received by the investment
company from other taxable
Canadian corporations.

(vii) Investment companies should be

entitled to a refund of tax
suffered on income earned
after the proposed amendment
becomes effective if that
income is subsequently paid
out to shareholders as a cash
dividend. That is by way of
a transitional matter as well
as for the future.

I think since the proposals are rather long,
the recommendations, I will try and cut this down as
far as possible since it is already in the brief.

In addition to normal expenses already
allowed it is submitted that all cash dividends paid
during the year should also be allowed. Needless to
say, if this is done, all calculations of tax payable
will also have to exclude the foreign and provincial
taxes applicable to the dividends paid.



C-5

1 The company should be taxed at normal
2 corporate rates on net taxable income, therefore
3 eliminating a flat rate.

4 Investment companies should be allowed a
5 refund of any taxes suffered in earlier years if
6 dividends are paid out from income which has already
7 been taxed.

8 As a result of these measures, it would be
9 necessary for the company to report to shareholders
10 the various sources of income and the dividends which
11 the company is paying, and also the various sources
12 of foreign withholding taxes.

13 To carry this through to its logical end,
14 the shareholders will have to declare the same
15 information which is given to them by the company.

16 In the final paragraph, we submit that
17 subsections (ba) (bb) and (e) of the section 69(2),
18 of the Income Tax Act should be repealed.

19 This concludes the summary proposals,
20 the recommendations, and before proceeding to further
21 recommendations which have not been put into this
22 submission because of their complexity, Mr. Ivory and
23 I would welcome any questions which the Commission has
24 on the brief so far.

25 THE CHAIRMAN: Thank you. Well, first of
26 all, on qualifications, you are a chartered accountant
27 and financial officer of the Great Britain and Canada
28 Investment Corporation.

29 MR. KENWARD: I am an officer of the company,
30 I am a director of the Investment Secretariat, which



C-6 1 manages a group of investment companies, of which
2 Great Britain and Canada Investment Corporation is one.

3 THE CHAIRMAN: And Mr. Ivory is associated
4 with you.

5 MR. KENWARD: Mr. Ivory is the investment
6 officer of Great Britain and Canada Investment
7 Corporation.

8 THE CHAIRMAN: And Great Britain and Canada
9 Investment Corporation is a closed-end investment
10 company and is publicly owned with listed shares.

11 MR. KENWARD: Yes.

12 COMMISSIONER PERRY: Mr. Kenward, you
13 anticipate one of the obvious starting points for any
14 discussion here in recognizing that the present
15 provision does carry a concession to any company
16 that will fit its prescribed terms. You do that on
17 page 10 and, in fact, say that in your view this
18 concession should not be granted. Is that a correct
19 interpretation?

20 MR. KENWARD: That is right, sir.

21 COMMISSIONER PERRY: And I would gather
22 that in saying ~~that~~ you are speaking only for your own
23 type of company. I was just wondering whether you
24 could comment on the extent to which you are typical
25 of Canadian mutual funds, simply for the guidance of
26 the Commission in considering your proposals,
27 particularly as to the extent to which other mutual
28 funds might have a different point of view. I don't
29 suggest that you speak on their behalf. Is this a
30 point of view which is rather indigenous to your



C-7

1 position here?

2 MR. IVORY: First of all, I should perhaps
3 mention that this is not a mutual fund, this is a
4 closed-end company, although they do set out much
5 the same purposes; in other words, to provide the
6 shareholders with a diversified list and share in
7 management. Of course, there are mutual funds which
8 do in effect achieve this. There are certain ones
9 which are trusts, they are not incorporated companies,
10 and their shareholders are taxed in almost the same
11 manner we are recommending here. And, of course,
12 in the States the regulated companies down there
13 are allowed to pay dividends, too, and they are taxed
14 in the fashion we are proposing.

15 COMMISSIONER PERRY: I wonder if you could
16 return specifically to my question. Your proposal
17 obviously arises out of your own particular approach
18 to investment. Is that not true?

19 MR. KENWARD: That is correct.

20 MR. IVORY: Yes. There are funds which do
21 not have such a diversified risk and which do restrict
22 themselves to Canada, but as they are invested largely
23 in Canadian shares it wouldn't alter their tax
24 position.

25 COMMISSIONER PERRY: It wouldn't really matter
26 to a company of that kind.

27 MR. IVORY: No.

28 MR. KENWARD: Perhaps we could pursue that
29 point one step further. I believe that Great Britain
30 and Canada Investment Corporation was completely caught



C-8

1 in the net of the 1960 legislation and had to
2 liquidate holdings. This probably did not affect
3 other companies, therefore it was unfortunate the
4 legislation should have forced one or two individuals
5 into this position of having to sell out. They have
6 had an established policy for very many years before
7 which hasn't been abused; it remained at 40 per cent
8 for foreign holdings for twenty years and it varied
9 between 25 and 45 with very small variations. If
10 legislation is brought in to stop mass outflow, that
11 is another matter, which I don't think we could be
12 accused of.

13 COMMISSIONER PERRY: I think in retrospect it
14 can be seen ~~that~~ fairly drastic steps ~~were~~
15 taken in December, 1960.

16 MR. KENWARD: Yes.

17 COMMISSIONER PERRY: Your proposal is that
18 this arrangement be substituted so that all investment
19 corporations operate basically under the arrangements
20 you visualize.

21 MR. KENWARD: That is correct; and also to
22 put it on a basis comparable with other unincorporated
23 trusts which are operating the same as we are.

24 COMMISSIONER PERRY: It may be that another
25 investment corporation with its assets entirely in
26 Canadian equities would feel it was an intolerable
27 inconvenience to carry through this arrangement with
28 its shareholders. There is going to be quite an
29 administrative chore.

30 MR. IVORY: This is done by the unincorporated



C-9 1 trusts, and I don't think it is very onerous, and I
2 think it is fair to say that their operating expenses
3 are no greater than the mutual funds which are
4 incorporated.

5 MR. KENWARD: If they are already in completely
6 Canadian funds, one of the main extra chores will be
7 to break down the interest.

8 COMMISSIONER PERRY: Yes, give a detailed
9 statement. Do the trusts have as many members
10 generally, if they may be called members, as the
11 incorporated form of organization?

12 MR. KENWARD: This is a very difficult
13 question to answer. We have in the region of 370
14 shareholders, of which more than 70 per cent own
15 250 shares or less. Now, that shows you that there
16 are some very large blocks in there, but we understand
17 that these blocks are held in the name of nominees
18 who are representing again a great number of different
19 shareholders. So to get back to the accurate number
20 of shareholders in a closed-end trust is not always
21 possible, as, indeed, in a mutual fund there are
22 a great number of nominee accounts.

23 COMMISSIONER PERRY: As I see it, the main
24 element in your proposal is that ^{the} restriction or at
25 least the limitation to 85 per cent of income from
26 Canada be removed. This is No. 1. Now, would you
27 visualize any limitation whatever?

28 MR. KENWARD: If you are asking me my straight
29 forward personal answer, it is no restriction at all.
30 But obviously you might want to build in some sort



C-10 1 of safeguard, and I don't think anyone in the investment
2 trust world would object to 50 per cent or thereabouts.

3 MR. IVORY: This corporation ran into about
4 40 per cent of foreign investments for a long time.
5 I can't speak to the policy of the Board, but the
6 chances are that it would be the sort of figure we
7 would envisage, because there are many industries
8 which are attractive to invest in but which you cannot
9 invest in in Canada. This is the reason for it.

10 Even such things as public utilities, specially
11 electric utilities, always have been great favourites
12 of investment companies; and, as we are well aware,
13 in Canada the number of shares available is decreasing
14 rapidly, and this is the reason for going outside the
15 country. It is not so much a question of investing
16 in the United States or elsewhere, which is purely
17 for the sake of diversification geographically; it is
18 also to get a diversification within industries.

19 COMMISSIONER PERRY: Another key part of
20 the
21 your proposal is that normal two rate schedule
22 be applied to what in effect becomes retained
23 income each year.

23 MR. KENWARD: Right.

24 COMMISSIONER PERRY: What seems to be a
25 more revolutionary proposal is that the income to
26 shareholders be allowed as a deduction.

27 Mr. KENWARD: It is revolutionary to Canada
28 but it is not to the United States. It is allowed
29 as a deduction for the dividends paid from its taxable
30 income under the regulated investment companies clause.



1 COMMISSIONER PERRY: What would you say to
2 this? The thing that strikes me about it is that it
3 does restore a good deal of the favoured position which
4 in an earlier paragraph/^{you said}was not warranted.

5 MR. KENWARD: I didn't quite catch that.

6 COMMISSIONER PERRY: It strikes me that the
7 deduction for dividends paid did in one sense restore
8 to this type of organization the preferred position
9 as to tax which in an earlier paragraph you have
10 suggested is neither warranted nor desirable.

11 MR. IVORY: These have to be looked at
12 together. What we are really trying to express is
13 that an investment trust is in a sense a conduit.
14 In other words, we invest the shareholders money and
15 collect it on their behalf, which is the approach of
16 the American regulated investment company, and then
17 they pay tax on it as though they had received it
18 directly. But they do have the advantage of being
19 able to get professional management, a lot of
20 diversification, which they cannot get on their
21 own. At the present time we have a little relief from
22 it, but at the present time there is triple tax on
23 diversification. But these two things must be regarded
24 together.

25 COMMISSIONER PERRY: This is rather a
26 unique interpretation of conduit. One interpretation
27 might be that what goes in at one end comes out the
28 other end in the same form. In other words, the
29 interest which comes in at one end goes out as interest
30 at the other end.



1 MR. IVORY: That is right.

2 MR. KENWARD: That is one point, that the
3 source of income would have to be revealed to shareholders
4 at the time of receiving it. That fact would have to
5 be disclosed to shareholders so that they can report
6 it in these proportions on their returns. The
7 conduit description is absolutely accurate, that it is
8 a pipeline for this income coming through to the
9 individual shareholders.

10 COMMISSIONER PERRY: I may have missed something.
11 Do I understand that only the dividends received would
12 be declared to the shareholders as dividends and not
13 the interest and other things?

14 MR. KENWARD: We say pay out dividends.
15 But pay out income -- does that cover the point?

16 COMMISSIONER PERRY: There is the point that
17 income received qualifies for the tax credit.

18 MR. KENWARD: I think the appendix which is
19 attached to this brief shows that the expenses
20 attributable to all forms of income have to be split
21 down pro rata.

22 MR. PERRY: Yes, but it seems to me that
23 in other cases you are going to allow dividend tax
24 credit.

25 MR. KENWARD: No, sir.

26 MR. IVORY: Dividend is a misleading word.
27 What you would be paying out would be an element of
28 income received from taxable Canadian corporations
29 which would be eligible for dividend tax credit and
30 there would be a foreign situation which would not be



1 eligible for dividend tax credit but for which the
2 shareholder could claim withholding tax. This could
3 all be combined into what we declared as a dividend.

4 COMMISSIONER PERRY: This is a clean conduit;
5 everything that goes in in the form of interest comes
6 out in the form of interest.

7 MR. IVORY: Yes.

8 MR. KENWARD: To answer your previous
9 question, on page 13, Section G, the last sentence,
10 specifically states the answer to your question.

11 COMMISSIONER PERRY: Well, I am not sure
12 that it does. In fact, it was one of the sentences
13 which really puzzled me. It opens up a broader
14 question.

15 THE CHAIRMAN: I had exactly the same problem,
16 namely, what I am concerned with is that the amount
17 in total going into the conduit is not necessarily
18 the same amount coming out at the other end, and
19 therefore I am puzzled how one denotes the elements
20 going in in relation to the elements coming out. I
21 wonder if a true conduit would not be a trust?
22 That is on the T-4 return which has been received,
23 which is the same income, deemed to be, anyway, as
24 has moved out. The reason you don't do that is
25 because you want to hold up some of the income and
26 not necessarily distribute it all; is that correct?

27 MR. KENWARD: I think investment policies
28 would vary. We are suggesting if it is held up
29 that it should suffer tax. This is to give
30



1 investment management freedom. Now, if a shareholder
2 doesn't like that particular investment manager's
3 policy of not paying out all the dividends, they
4 will suffer, it will be taxed in the corporation.

5 Appendix "A" sets out how this should be
6 done, but it is only one alternative obviously. It
7 would be very nice if we could get all the same
8 legislation for an incorporated company as we have for
9 an unincorporated trust in this same industry. This
10 obviously is going to pose many far-reaching problems.
11 Are you going to have special investment legislation
12 as distinct from other corporations. You might have
13 a shareholder in Algoma whose earnings per share were
14 so much, 50 cents, and they only paid out 40 cents.
15 Should they be treated in the same way or not?
16 This limited corporation is probably the biggest
17 obstacle.

18 COMMISSIONER GRANT: As far as the operation
19 of your company is concerned, what you would like to
20 visualize is that the income which you received from
21 whatever source should be non-taxable in your hands
22 if it was distributed in the year in which it was
23 received.

24 MR. KENWARD: If it was distributed 100
25 per cent, yes.

26 COMMISSIONER GRANT: But you would pay a
27 tax on the income which was not distributed, but if
28 it was later distributed that you would be allowed
29 a refund of that tax.

30 MR. KENWARD: Yes. The dividend that was



1 paid out in the previous year's earnings would then
2 be taxed in the hands of the shareholder.

3 COMMISSIONER GRANT: And you would break
4 that down into the income from whence it was received.

5 MR. KENWARD: Yes, that is correct.

6 COMMISSIONER GRANT: And you in turn would
7 be relieved of restrictions on investment as set
8 forth in Section 69.

9 MR. KENWARD: Of the restrictions, yes.

10 COMMISSIONER GRANT: Do you consider that
11 because you are operating at the present time on
12 tax that is lower than that which would be applicable
13 to a straight joint stock company there is a reason
14 for that in restrictions that are imposed in respect
15 of investments so far as the amount of money that
16 you will invest in Canada?

17 MR. KENWARD: I don't think there is any
18 direct connection between the rate of tax and
19 restriction.

20
21 --

22
23 --

24
25
26
27 --



1 COMMISSIONER GRANT: Or the amount of money
2 you will save funnelled into Canadian investments.
3 You don't consider that?

4 MR. KENWARD: No.

5 THE CHAIRMAN: If you consider 50 per
6 cent of your earnings, what do you give to the share-
7 holders? Is it proportionate to what you have
8 earned?

9 MR. IVORY: Yes, it must be proportionate.

10 MR. KENWARD: It is the same as is given
11 to a trust, except that it is not income.

12 THE CHAIRMAN: The proportion given to a
13 trust is 100 per cent, is it not?

14 MR. KENWARD: Yes, except that you show
15 the gross figure, but you are also allowed to show the
16 net.

17 COMMISSIONER BEAUVAIS: It means that the
18 retained earnings will be figured on the same basis
19 as the proportion of dividends and interest, and foreign
20 dividends?

21 MR. KENWARD: Yes, pretty well across the
22 board, as it is computed for a normal investment
23 company, and there are very few occasions where you are
24 paying out dividends on a previous year's earnings in
25 an investment company.

26 COMMISSIONER BEAUVAIS: And you are keeping
27 those earnings for what then?

28 MR. KENWARD: For our investment, but if
29 they are retained they will suffer tax.

30 MR. IVORY: We don't want to labour the point



1 of the retained earnings, because we wouldn't visualize
2 anything much in retained earnings, but if we do
3 retain earnings we have to pay the full tax rates, but
4 we think that investment trusts should be regarded on
5 this principle, and retained earnings will of course
6 be a very small part, and your shareholders will almost
7 certainly object.

8 THE CHAIRMAN: Would this solution still be
9 acceptable to you if there were no refund of corporate tax
10 the retained earnings at the time that the shareholders
11 received the ^{retained} earnings? You have submitted that there
12 should be relief from corporation taxes when your
13 contributions exceeded your earnings. I suggest to you
14 that that might be objectionable, and it leaves an
15 overhanging liability against the government.

16 Would this solution still be a good solution
17 if that were not there?

18 MR. IVORY: Yes, I think that is in the
19 nature of a refinement of a refinement, and I believe
20 it is relevant in a small degree to the point which we
21 are trying to make.

22 MR. KENWARD: I think the whole purpose of
23 this submission is to leave investment managers free
24 to make their decisions on a much longer basis, and they
25 want to know whether they can operate on a similar type
26 of law consistently for many years. I think, as the
27 brief shows, the law has been changed so often in the
28 last ten years that it is very difficult to act completely
29 independent of tax considerations.

30 THE CHAIRMAN: I would have thought that one



1 solution from the government point of view would be to
2 deem all income as distributed, and to tax it?

3 MR. KENWARD: Absolutely.

4 THE CHAIRMAN: And another one would be the
5 one I mentioned to you, namely not paying the tax on
6 corporation rates and as an incentive to see that that
7 is kept down, that there be no refund of corporation
8 taxes?

9 MR. KENWARD: There is one objection that
10 I see to that, and that is some years the income from
11 the capital assets fund may be affected by circumstances
12 in the stock market outside the control of the managers,
13 where it might be imprudent to pay for this out of
14 capital.

15 I am not going into detail.

16 COMMISSIONER BEAUVAIS: But, on the other
17 hand if the income is to be all distributed, a shareholder
18 will have to pay income tax on a certain amount that
19 he will not receive?

20 MR. KENWARD: That is right, and that is what
21 is happening in the United States. In the case of a
22 non-resident company the Revenue Act of 1962 put that
23 in to stop foreign corporations.

24 THE CHAIRMAN: This is not a place where
25 income should be accumulated?

26 MR. IVORY: I think we accept that, but we just
27 put it into this brief to make a fairly reasonable
28 taxation base for what is not accumulated.

29 COMMISSIONER BEAUVAIS: But would you consider
30 being obliged to distribute 100 per cent of your



1 net income?

2 MR. IVORY: I think that would be fair, yes.

3 COMMISSIONER GRANT: In that event where
4 would your growth come from, by the issuing of new
5 capital?

6 MR. IVORY: The purpose of investment is
7 to derive income of course, and you get your growth
8 through the market appreciation of the shares. If
9 we remove the speculative angle, which is terribly
10 important, but is not really an investment consideration,
11 it is the money that is our investment on your
12 behalf by the individual corporations.

13 COMMISSIONER GRANT: But if you are looking
14 for long-term investments then that growth is going
15 to be largely effected in the book values of your
16 shares, rather than actual values?

17 MR. IVORY: Yes, and rather than actual
18 income.

19 COMMISSIONER GRANT: At the present time
20 do you pay income on your capital gains?

21 MR. KENWARD: I don't think any investment
22 concern in Canada does.

23 MR. IVORY: No. There is no hard and
24 fixed rule that I am aware of, but if we were obviously
25 buying shares and then selling them three months later
26 and making profits, then it would be deemed to be
27 income, and it would be taxed.

28 COMMISSIONER GRANT: You would consider
29 yourself to be a trading company?

30 MR. IVORY: Yes.



1 COMMISSIONER GRANT: And your management
2 thinking is not along that line?

3 MR. IVORY: No.

4 COMMISSIONER GRANT: That is the reason that
5 you want to be relieved of some of these restrictions,
6 so that you can diversify in investments of foreign-
7 owned corporations?

8 MR. IVORY: Yes.

9 COMMISSIONER GRANT: Because you are under
10 a very wide powers as far as investments in Canadian
11 securities are concerned at the present time, so that
12 your real objection is that you would like to be freer
13 to invest in foreign securities?

14 MR. IVORY: Yes. There are industries that
15 we can't invest in. After all, our duty to the
16 shareholders is to provide the income and safety of
17 principal, and from time to time if you are running
18 an investment trust you might consider it desirable
19 to invest in American stock.

20 COMMISSIONER GRANT: Perhaps you would say
21 that there are not sufficient Canadian companies whose
22 shares are available on the Canadian stock exchanges
23 that have international businesses to fulfil your needs?

24 MR. IVORY: Yes.

25 COMMISSIONER PERRY: One of the specific items
26 in our terms of reference is to propose changes which
27 will increase Canadian equity capital and the holding
28 of equity capital by Canadian residents. Do you feel
29 that your proposal is in conformity with that?

30 MR. KENWARD: I can think of cases where it



E-6
1 is more profitable for non-Canadians to invest in
2 Canadian industry than it is for Canadian residents.
3 One of the ways to encourage the Canadian to invest here
4 is to give him the most favourable tax consideration.

5 COMMISSIONER PERRY: I think you will have
6 to concede that the spirit of 69, as it is, is directed
7 towards Canadian investment.

8 MR. IVORY: Yes, and the Minister did spell
9 out fairly clearly that view. We, of course, in the
10 investment business don't accept the view that money
11 should be directed where to go. It should be placed
12 where the return is best. This is a thing which
13 one could explore for some considerable time. We
14 put forward that these fiscal measures should not be
15 used to direct where professional investors should
16 put their money. They should be able to make the
17 decisions.

18 MR. KENWARD: Also you have the other
19 consideration that is pointed out here. It might be
20 more profitable for the investor to invest direct in
21 the foreign securities than it is through an investment
22 company which, of course, defeats the whole objective
23 of the investment company so far as the diversification
24 is concerned. He might take the view that "Well, I
25 am investing in an American mutual fund".

26 COMMISSIONER BEAUVAIS: He could also
27 invest in an American trust fund?

28 MR. KENWARD: Yes.

29 THE CHAIRMAN: Thank you very much indeed.
30 I think we have exhausted our questions, and I think we



1 have a pretty good understanding of what you have
2 submitted to us this morning. We will certainly keep
3 on looking at it, and it only remains for me to ask
4 you if you have anything more that you would like to say?

5 MR. KENWARD: Well, I think our final plea
6 is that we should be treated in the same way as
7 unincorporated trusts insofar as equity or taxation is
8 concerned. If an unincorporated trust is allowed
9 to invest abroad, so should an incorporated firm.
10 There are two groups of unincorporated trusts in this
11 country with assets of over \$2 million.

12 THE CHAIRMAN: I am sorry. You raise
13 one more question. I take it that an alternative
14 solution to you would be simply a declaration that
15 you might avoid taxation if you elected to be treated
16 as a trust?

17 MR. KENWARD: With all the conditions the
18 trust has for freedom of investment wherever it likes.

19 THE CHAIRMAN: Thank you very much indeed.
20 I must say that you put forward your case very clearly,
21 and we will, as I said before, continue to consider it.
22 Many thanks for your appearance here today, and the
23 help that you have given us with this problem.

24
25
26 ---Adjournment.
27
28
29
30



ANGUS. STONEHOUSE & CO. LTD
TORONTO, ONTARIO

ROYAL COMMISSION ON TAXATION

Hearings held in Room 404,
McConnell Engineering Building,
McGill University,
Montreal, Quebec, the
29th day of April, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER - Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT



ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF MONTREAL, QUEBEC

April 29, 1968

TOPICAL INDEX

VOLUME No. 10

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a)	<u>INTRODUCTION:</u>	
	Opening remarks of the Chairman	780, 781
(b)	<u>Submission: Of</u>	
	<u>The IMPERIAL TOBACCO COMPANY OF CANADA, LIMITED</u>	780
22	Excise Taxes and Excise Duties	790 / 810
27	Incidence of Taxation	797
46	Sales Tax - Federal	795 / 804
(c)	<u>SPECIFIC DISCUSSIONS:</u>	
	Preamble	781 / 789
	Explanations, procedure of paying excise, sales and duty taxes	790
	Use of Excise Stamps (United States) discontinued use of stamps to indicate tax paid, system on a return basis	793
	A reference to reusable containers, in conflict with Excise Tax Act, a point of validity in the law	794
	Excise Tax Act; referred to as an " Anachronism"	794, 795
	Excise and Sales Taxes not on the commodity, but, on the individual	795, 798
	A point of reference to methods adopted in some european countries, taxing the industry and state control	798, 799
	Is the present Canadian productive capacity in the industry being fully used	799, 800
	Reduction in Federal Taxation might be quickly absorbed by Provincial taxation	800, 801
	The consumption of manufactured tobacco per capita in relation to ready made per capita	801, 802
	Survey in the market, factor of price with respect to consumption of tobacco products	803
	A question of changes in periodical rates of excise and sales Taxes, has the consumer benefited	803 / 808



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Montreal, April 29, 1963

ii

Volume No. IO

<u>Titles</u>	<u>Description</u>	<u>Page</u>
<u>Specific Discussions</u> (continued)		
<u>Imperial Tobacco Company of Canada</u>		
Suggestion, Services as defined, be taxed as an alternative to reduction of the tax on cigarettes		305
Assessing the efficiency of the tobacco industry		305 / 307
Cigar consumption, reason for upward trend		309
Closing remarks of the Chairman		310



Volume No. 10

1			
2	<u>Titles</u>	<u>Description</u>	<u>Page</u>
3	(d)	<u>Submission: Of</u>	
4		Mr. H. Douglas, Lightfoot (Professional Engineer)	811
5		Opening remarks of the Chairman	811
6	35	Personal Income Tax-Exemptions	815
7	42	Personal Income Tax - OTHER	812 / 826
8	47	Sales Tax - Federal	817
9	(e)	<u>DEBATING DISCUSSIONS:</u>	
10		Preamble	811, 812
11		Particulars in reference to the participant	811
12		Method and means by which individual taxpayer should be able to evaluate taxes he pays	812 / 819
13		A matter of fair distribution of taxes	813
14		Opposition to progressive tax rates	814
15		Reference to a uniform tax rate, some statistics relative thereto	815 / 817
16		Non-essentials, as liquor and tobacco contributing heavily to government expenditures	817
17		Opposition to withholding features of Income tax system presently in force	818
18		To what extent is the individual taxpayer interested in tax matters	821
19		Government Revenue in hidden taxes basis for legislation in respect to low current expenditures	821, 822
20		Suggestion, all taxation be based on income, effect of such measure	822, 823
21		Closing remarks of the Chairman	826
22			
23			
24			
25			
26			
27			
28			
29			
30			



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Montreal, April 29, 1933

iiii

Volume No. 10

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
33	Submission of The Imperial Tobacco Company of Canada, Limited	720
34	Submission of Mr. H. Douglas Lightfoot (Professional Engineer)	811



Monday,
Montreal, Quebec,
April 29th, 1963.

---Upon resuming at 9.30 a.m.

THE CHAIRMAN: I think it is close enough
to 9.30, Mr. Secretary, for us to commence.

THE SECRETARY: Mr. Chairman and Commissioners,
we have with us this morning officers of the
Imperial Tobacco Company of Canada, Limited. Mr. J.A.
Calder, Vice-President and Treasurer, will speak to the
brief and will introduce his officers to you.

I would like at this time to enter the
brief of the Imperial Tobacco Company of Canada, Limited
in the record as Exhibit No. 33.

EXHIBIT NO. 33; Submission of Imperial
Tobacco Company of
Canada, Limited.

SUBMISSION OF THE
IMPERIAL TOBACCO COMPANY OF
CANADA, LIMITED

APPEARANCES:

J.A. Calder,	Vice-President and Treasurer.
Pierre Roberge,	Assistant Secretary.
R.M. Browse,	Manager, Market Research.
John Ruffo,	Manager, Economic Research.
B. Gallagher,	Assistant Treasurer.
Matthew Glezos,	Manager, Tax Department.

THE CHAIRMAN: Thank you, Mr. Secretary.
Good morning, Mr. Calder and gentlemen. We are delighted
to receive your well prepared submission to us, and we are



1 very glad to see you turn up this morning so amply
2 represented.

3 This is not an easy subject, of course,
4 but we think that your company is ideally situated so
5 as to be able to give us some advice and assistance.
6 Would you care to introduce your colleagues, Mr. Calder?

7 MR. CALDER: Yes, I will do that, Mr. Chairman.
8 On my extreme right is Mr. Roberge, Assistant Secretary
9 to the company. Next to him is Mr. Browse who is
10 Manager of our Market Research Division. On my
11 immediate left is Mr. Ruffo, Manager of our
12 of the Economic Research Division. On Mr. Ruffo's
13 immediate left is Mr. Gallagher who is the Assistant
14 Treasurer, and next to him is Mr. Glezos, Manager of
15 our Tax Department.

16 THE CHAIRMAN: Would you care to say a
17 few words?

18 MR. CALDER: By way of identifying the
19 company I might just mention that in Appendix G of
20 our submission we have set out some particulars of the
21 company. However, suffice it to say that the Imperial
22 Tobacco Company has been existence for more than 50 years,
23 and it together with its subsidiary companies represents
24 in a general way approximately 50 per cent of the
25 manufacturing section of the industry.

26 I would like, if I may, to comment on the
27 matters contained in the summary of the brief.

28 THE CHAIRMAN: Yes.

29 MR. CALDER: In the first instance, we have
30 made it a point of making this presentation on behalf of



1 the Canadian cigarette smoker, and we submit that he
2 is being called upon to contribute at an unreasonable
3 rate to the federal revenues.

4 Throughout the remarks that any of us will
5 make today, and also to some extent throughout our
6 submission, we will talk of taxes on cigarettes and
7 taxes on tobacco, but it is our belief that really there
8 is no such thing; that there are only taxes on people.
9 In this case the people concerned are those citizens
10 who exercise their right to smoke, so it is on behalf
11 of the smokers, and from the smokers' point of view,
12 that we put forward our submissions.

13 I would like to mention also that we are
14 not asking for any special treatment on behalf of the
15 smoker. In fact, it is rather the reverse. We are
16 asking for relief from the special treatment we have
17 been receiving.

18 THE CHAIRMAN: Are you comfortable standing,
19 Mr. Calder? You may sit down, if you prefer to do so.

20 MR. CALDER: Thank you, Mr. Chairman, but
21 I will stand if it is all the same to you.

22 The smoking half of the adult population
23 is, we feel, drastically higher taxed than the non-
24 smoking half of the population, and that is, in essence,
25 what we have tried to say in the presentation we have
26 submitted.

27 The cover design of our submission is an
28 illustration in diagrammatical form of what we feel
29 is a general summary of everything we say in the sub-
30 mission. We make no apologies for it. Perhaps it is



1 an over-simplification, but we feel it does, in essence,
2 carry the message we have tried to convey in the
3 written pages of the submission. It may interest the
4 Commission to know that while it is more diagrammatic
5 than being drawn to scale it does represent correctly
6 by volume exactly what we have supported by the figures
7 in the brief.

8 In examining this problem as to why there
9 should be such a high tax on cigarettes in particular,
10 and on tobacco products in general, we have asked our-
11 selves if it can be explained by the fact that cigarettes
12 are a luxury, and whether this fact justifies a high
13 tax. We say emphatically that cigarettes are not a
14 luxury. Their widespread usage among people in all
15 income tax brackets suggests that they are not a luxury.
16 The well-known uniform quality which most cigarettes
17 have also suggests there is no item of luxury involved
18 in the grades or types of the products on the market.
19 We believe that they are no more a luxury than any one
20 of a thousand other items that are only taxed generally
21 and which are not subject to specific taxes and
22 which are not essential to maintain life at a subsistence
23 level. We concede that anything beyond what is
24 required to maintain life at a subsistence level may have
25 some element of luxury in it, but if cigarettes are a
26 luxury then so is a countless number of other articles.

27 We have also given consideration to the
28 fact that some people hold that smoking is immoral or
29 that it might be injurious to health. We do not
30 subscribe to these views. We do feel positively,



1 even if there were some degree of validity to such
2 contentions, that taxation is not the way to effect
3 regulation if, in fact, regulation is required or
4 justified.

5 We have looked for yardsticks by which we
6 can determine what might be a reasonable level of tax.
7 The yardsticks we found are general ones. There is
8 no rule of thumb by which to go. We have used what
9 we term common sense comparisons with other commodity
10 taxes in Canada; comparisons with tobacco taxes in
11 Canada in other periods of time; and comparisons of
12 excise taxes on these products in other countries.

13 On page 2 of our submission there is an
14 illustration identified by the words "Who shares the
15 Canadian cigarette smoker's dollar". This, again,
16 is a diagrammatical presentation of this subject of
17 the extent of federal excise taxes on cigarettes.
18 Again, the diagram has been drawn to scale.

19 We have a reference in our presentation to the
20 cigarette industry because naturally the industry is
21 both concerned with and affected by the present high
22 rates of the federal tax. We have pointed out that the
23 industry is almost 100 per cent Canadian in the content
24 of all its products. There are many secondary industries
25 in Canada in which either the raw materials or parts
26 are imported to a very considerable extent, and when
27 such other industries prosper there is benefit to foreign
28 producers and foreign labour. This is not the case, in
29 general, in the cigarette industry in Canada.

30 Prosperity in the industry is reflected in the prosperity



1 of Canadian producers and Canadian labour.

2 We are not a high cost industry, and we
3 are not appealing for help to survive because of our
4 own inefficiency. We maintain that by any standards
5 available the cigarette industry of Canada, and, in
6 fact, the whole tobacco industry in Canada, is a
7 low cost efficient operation.

8 We have stated that we sell our particular
9 cigarettes -- and this is true of all our tobacco
10 products -- at substantially the same price net of
11 tax as does the American manufacturer who enjoys a
12 much wider market and a much larger manufacturing
13 opportunity. In fact, there was a very slight difference
14 in the price per 1,000 cigarettes in this regard until
15 a few days ago when the Canadian manufacturers' selling
16 price net of tax was \$4.78 per thousand and the average
17 comparable cigarette in the United States was selling, net
18 of tax, at \$4.68 per thousand. There was a difference
19 of about two per cent. Since then there has been an
20 increase of about ten cents in the selling price of the
21 American cigarettes. We have not as yet had an
22 opportunity of weighting that increase with respect to
23 the various types of cigarettes, but it looks to me
24 as if in all respects we are on all fours, and I think
25 that illustrates that we are able to operate efficiently.

26 We have suggested alternative sources of
27 revenue to be found in a broadening of the sales tax base,
28 and particularly in the application of sales tax to
29 the sale of services. In making these suggestions we
30 have in mind the terms of reference of your Commission and



1 also what we understand to be the expressed wishes
2 of the Commission. We have pointed out that the service
3 sector is a growing sector. It is attracting more
4 of the consumer's dollar every year. We believe this
5 trend will continue, and will continue at an accelerated
6 rate. We believe this sector offers both a fruitful
7 and an equitable source of revenue.

8 We have made one firm and concrete suggestion
9 in the whole of the presentation, and that is that
10 the federal excise duty and tax on cigarettes should
11 be cut in half. We could have gone further. It is our
12 belief that our submission adequately supports a case
13 for the complete abolition of the taxes in toto,
14 but we are here trying to be practical. If for any
15 combination of reasons, valid or not, it is thought that
16 cigarettes should bear a tax rate which is greater
17 than that on other commodities that pay only the general
18 sales tax, we ask, then, how much greater should this
19 tax be. Should it be twice the general tax rate, or
20 should it be five times the general tax rate? If
21 our suggestion of cutting the existing tax in half is
22 acted upon then the rate would still be the equivalent
23 of ten times the general sales tax rate.

24 All that we have said in our submission
25 concerning cigarette taxes equally applies to taxes on
26 other manufactured tobacco products, including cut
27 tobacco and cigars, and we would suggest that our
28 representations be considered in this light. Our
29 illustrations, for the most part, are drawn from the
30 cigarette, which is the major section of the industry, but



1 in general terms everything we say applies equally to
2 other tobacco products.

3 We welcome this opportunity of presenting
4 our submission, Mr. Chairman, and we thank the
5 Commission for granting us this hearing. We have
6 made many previous submissions on this same subject,
7 all to the Minister of Finance of the day. As
8 the Minister of Finance through the years has been
9 faced with at best a meagre budgetary surplus and at
10 worst a staggering budgetary deficit, there has not
11 appeared to be either the time or the opportunity for
12 recognition of matters of equity. We are glad that
13 there is now a Royal Commission on Taxation. We
14 are convinced that matters of equity will now receive
15 the consideration that they so justly deserve. We
16 are hopeful that the Commission will recognize the
17 validity of the case we have presented for a drastic
18 reduction in federal tobacco taxes, and we trust this
19 view will be accepted in fiscal circles and that a
20 program to achieve this end will be implemented without
21 delay.

22 Finally, Mr. Chairman, if we can be of any
23 assistance to the Commission in the discharge of its
24 onerous but important duties, either now or at some time
25 in the future, with respect to clarifying any points in
26 our submission or by providing any additional pertinent
27 information, then we shall try our very best to meet your
28 wishes.

29 Thank you very much, Mr. Chairman.

30 THE CHAIRMAN: Thank you, Mr. Calder. I am



1 sorry that two members of the Commission could not be
2 present today to hear this excellent presentation.
3 They have expressed their regrets, and have asked me
4 to convey them to you. We shall tell them all about
5 your presentation and they, of course, will have the
6 record available.

7 We do have a few questions to put to you.
8 You have referred to the degree by which your industry
9 is Canadian. Speaking for myself, I have always
10 thought that it is remarkably so, particularly when
11 I suspect that the influence of brand names in the
12 United States and the ability to advertise those brands
13 in Canada must have made the Canadian cigarette
14 manufacturers strongly tempted in some way to co-
15 ordinate their advertising with the United States
16 advertising. The way you have resisted the temptation
17 to do so is quite remarkable. Perhaps it is due to
18 the different taste for cigarettes in Canada. Would
19 that be a reason?

20 MR. CALDER: Yes, it is a remarkable thing,
21 really, and I do not know that anyone has come up with
22 a satisfactory explanation of it. The most popular
23 type of cigarette, and the predominant cigarette in
24 the United States -- perhaps it is 95 per cent of the
25 American market -- is what is generally referred to
26 as the blended cigarette which contains the burley type
27 of tobacco as well as some of the Virginia type. In
28 Canada, strangely enough, this has never been the pre-
29 dominant type accepted by the Canadian population. The
30 Canadian population obviously prefers the Virginia type of



1 cigarette. Although a Canadian has an opportunity of
2 buying the blended type of cigarette made in Canada
3 he does not care to. He seems to prefer the Virginia
4 type of cigarette.

5 Most customs which become predominant
6 in the United States seem eventually to be adopted in
7 Canada. I am not saying that Canadians necessarily have
8 become overpowered entirely, but a high percentage over
9 a period of time do adopt such customs, but this
10 has not been true in connection with cigarette smoking.

11 It may be something to do with the
12 different climate. It is very hard to explain. In
13 fact, I have to say that we in the industry do not know
14 why this is; we only know that it happens. Naturally,
15 as manufacturers we will supply the Canadian smoker
16 with what he wants. He tells us what he wants by what
17 he buys, and that is what we make.

18 --

21 --

25 --

29 --



GH/je

1 COMMISSIONER WALLS: Mr. Calder, there
2 are one or two points of information I would appreciate
3 receiving from you that are not entirely pertinent to
4 your brief.

5 First of all, you pay excise duty of \$4 per
6 thousand, and excise tax of \$5 per thousand, plus
7 11 per cent sales tax. As I understand it, the last
8 two taxes are paid within 30 days after sale; in other
9 words, the goods going forward out of bond. Would
10 you enlighten me as to the procedure of paying excise
11 duty and placing the cigarettes in bond?

12 MR. CALDER: In the general sense, there
13 is no bonding of cigarettes except those maybe
14 manufactured for export. For the domestic manufacturer,
15 the whole premises used must be covered by licence,
16 and applications for licence supported by plans
17 and so on. There are also certain regulations that
18 are laid down from Ottawa: it may not have access to
19 retail outlets, and so forth. This is a form of showing
20 that whatever is manufactured is either put into bond
21 and controlled that way, or if it is for domestic
22 purposes, that it does in fact pay excise duty and
23 excise tax.

24 The excise duty of \$4 mentioned in Appendix A
25 is part of the duty that is covered by the stamp affixed
26 to the packet. These stamps we must buy in advance.
27 They are required to be cancelled, and so we must buy
28 them two days before we put them on the packet, and it
29 may be some weeks before they have actually gone through
30 the process of distribution from the manufacturer to the



1 wholesaler, and eventually from the wholesaler to the
2 retailer's shelves and into the hands of the consumer.
3 This is of course financed by the manufacturer.

4 On the other hand, the remaining two taxes,
5 the sales tax and the excise tax, both apply on sale
6 only and, as you suggest, paid following the month of
7 sale.

8 While there is no actual bonding operation,
9 the control is through the quantities of materials
10 brought into the manufacturing plant, and the number
11 of cigarettes produced, and a very rough but effective
12 control is maintained through the department by that
13 means.

14 There have been times in the past when it
15 used to be economical for a manufacturer to manufacture
16 a large number of cigarettes without stamping them,
17 in anticipation of subsequent demand, and actually
18 put them into bond. But today, with the cellophaning
19 of cigarette packets being a normal method of process
20 to the public, you would have to store them without
21 cellophaning them, to run them through your stamping
22 machine; and in fact today there are many operations in
23 which there is a direct line between packaging and
24 stamping, which is virtually one operation. So that
25 from a practical point of view, it does not occur.

26 COMMISSIONER WALLS: Then as an auxiliary
27 question, you yourself put on an excise stamp, which is
28 of course some government control as to whether
29 cigarettes are being smuggled or not. The imported
30 cigarette pays an equivalent tax through the customs



B-3

1 tariff, but there is no Canadian excise stamp on the
2 imported package to show that it has been paid. I
3 am not clear why you need the one control against
4 smuggling, and you do not have it on the imported
5 cigarettes.

6 MR. CALDER: The Canadian stamp is put on
7 the imported cigarettes.

8 COMMISSIONER WALLS: I am sorry, I did not
9 know.

10 MR. CALDER: And they have paid the duty.
11 I am afraid I have seen many that have not the Canadian
12 stamp on them, and I happen to know that the duty has
13 not been paid.

14 COMMISSIONER WALLS: Maybe these are
15 ones I have seen, and that is why I put the question
16 to you.

17 MR. CALDER: Even in the case of an
18 individual coming across the border who declares that
19 he has a carton of cigarettes, the laid down procedure
20 is that a Canadian stamp should be put on all those
21 packages. I don't believe it is always done, especially
22 in small quantities. But where an American manu-
23 facturer is shipping regularly into this market, the
24 department at Ottawa have made arrangements whereby they
25 will send him Canadian stamps, and he puts them on at
26 the point of manufacture, just as we do in our own
27 plant for our domestic goods.

28 Recognizing this same problem, that stamping
29 is part of a packaging operation, and the foreign
30 manufacturer has to account to Ottawa for the number of



1 stamps that have been turned over to him, the customs
2 duty that is paid has no specific relation to the
3 stamp that is on it, but just tells us that the duty has
4 been paid.

5 COMMISSIONER WALLS: How necessary do you think
6 this whole system of excise tax stamps is as far as
7 control goes? Would it be possible to control the
8 collection of any tax that may be left on that line
9 without the procedure of your having to buy stamps
10 in advance?

11 MR. CALDER: Yes. I do not think that it
12 is an essential part of control, not to the extent that
13 it perhaps was many years ago. There are in the
14 cigarette industry relatively few manufacturers, each
15 of which is a relatively large operation, and it would
16 not be difficult for the department at Ottawa to
17 control it without the necessity of these stamps.

18 However, the Commission is probably aware
19 that stamps were used in the United States until very
20 recently. About a year, or maybe two years ago, they
21 discontinued the use of stamps and they now pay the
22 tax by return.

23 One thing that concerns us is that if Canada
24 were now to discontinue the use of stamps, going back to
25 the point the Chairman made a few minutes ago about the
26 similarity of brands and the like, there are a number of
27 brands on which the name is the same and the design is
28 the same, and without the stamp on either the American or
29 the Canadian product we in Canada would not know,
30 without the closest scrutiny, whether the commodity was



1 one that was smuggled or had the duty properly paid.
2 We feel at this point, in any case, there is good reason
3 for continuing with the stamps, although it costs the
4 industry money and obviously costs the government
5 some money, but the whole tax is collected at such a
6 small percentage cost that if this is a valid point I
7 am making, we feel that that cost should be accepted.

8 COMMISSIONER WALLS: If I understand the
9 Excise Tax Act correctly, it states that after a
10 cigarette or tobacco package has been emptied, both
11 package and seal shall be destroyed. I now see that
12 one of the manufacturers at least is selling tobacco
13 in a reusable humidor.

14 Has there been a change made in the law
15 to permit that, or do you think the law in that respect
16 has any validity? Is it possible to carry out the
17 terms of that law?

18 MR. CALDER: I rather feel, Mr. Walls, that
19 that leads me to the provisions of the Excise Tax Act.
20 It has been there since 1871, and I think at the present
21 time it is an anachronism. I do not think it has any
22 very practical value and I do not think it helps to
23 effect control. I imagine it is left there so that
24 should anyone go to the length of returning a stamped
25 package to a manufacturer and having him refill it,
26 that is an offence that can be prosecuted. But the
27 opportunities for that are most negligible. I imagine
28 that probably some very small manufacturer who might
29 have a so-called factory in his basement might be
30 tempted, if someone brought him an empty 50-cigar box, to



1 have him put in another 50 cigars, might try to sneak
2 it past the inspector.

3 This is a protection against that sort of
4 operation rather than a practical protection of the
5 revenue as far as the main manufacturer is concerned.

6 COMMISSIONER WALLS: You prefaced your
7 remarks by a statement that the tax is not on the
8 commodity, but is on the individual. If you take
9 50 per cent off the excise tax and sales tax -- the
10 excise tax or any portion of the tax on tobacco --
11 and follow your suggestion, either by removing existing
12 exemptions from sales tax or by putting a sales tax
13 on services, are you not still taxing the individual
14 to the same amount as he would pay on the cigarettes?

15 MR. CALDER: I would love to answer that
16 question, Mr. Walls, but may I refer it to Mr. Ruffo, who
17 has a knowledge of economics?

18 MR. RUFFO: Our feeling on this one, Mr. Walls,
19 was that most of the items falling under the sales tax do
20 bear a relationship to wealth. You do have cars and other
21 commodities that can be distinguished as to quality by in-
22 come groups, and you are indeed taxing the individual, but
23 you are taxing him more on the basis of ability to pay than
24 you are in the case of cigarettes where the quality is in
25 fact quite uniform, and the consumption is in keeping with
26 some average to which all individuals subscribe, whether
27 wealthy or poor.

28 When you come to consider such items as
29 jewellery, automobiles, perfume and so on, I think it will
30 be readily admitted that you have a certain varying



B-7 1 degree as to quality. Here again, I repeat, you are
2 taxing the individual, and you are certainly closer
3 to the individual's ability to pay. This is the
4 point we are trying to make.

5 COMMISSIONER WALLS: If your tax on tobacco
6 represents only half of the adult population, do you
7 not think that the existing exemptions to sale tax af-
8 fect a much larger percentage of the average population?

9 MR. RUFFO: Yes. We concede that to be
10 a valid point, but I feel it is somewhat off the
11 basic argument that the commodity itself is being
12 used in about the same proportion by half the population.
13 There again, it is true the exemption would apply to
14 a larger number, but in some relationship as to the
15 application of the tax and as to the number.

16 COMMISSIONER WALLS: One further question
17 along this same line; if you cut the excise tax on
18 cigarettes and tobacco by 50 per cent.
19 At the present time yours is one of the few taxes under
20 the Excise Tax Act that is not on an ad valorem basis.
21 Would you have any objection to it being charged on
22 an ad valorem basis, and a combined and graduated sales
23 tax?

24 MR. CALDER: No, we see no objection to an
25 ad valorem basis. In fact, we have rather prodded
26 some of the Ministers of Finance in the past along these
27 lines. I would have loved to have heard the Minister of
28 Finance today stand up in the House and tell the House
29 that tax on cigarettes will be 209 per cent. I really
30 believe he would be howled down in the House. I believe



1 that is part of his problem: The incidence of
2 taxation is not recognized.

3 The tax comes under two separate Acts:

4 One is at about \$4 a thousand and the other \$5 a
5 thousand. To most people, they have lost interest and
6 they do not know what \$4 a thousand means when translated
7 into so much per pack or so much per cigarette.

8 I think it would be very sobering for the Minister of
9 Finance to recognize the incidence of taxation; it
10 would then be apparent to the public and to Parliament.

11 COMMISSIONER WALLS: That is all the
12 questions I have.

13 THE CHAIRMAN: Mr. Calder, one point came
14 to my mind out of Mr. Walls' questions. Most countries
15 levy rather high taxation on tobacco and cigarettes;
16 possibly of all commodities, this is the highest taxed.
17 What is the reason for that? Why do countries pick
18 upon tobacco?

19 MR. CALDER: I think the briefest explanation
20 that I can give is that James I did not like Sir Walter
21 Raleigh, who was a favourite of his sister, and he
22 opposed smoking from the very start, and perhaps trans-
23 ferred his dislike for Raleigh to the product which
24 Raleigh had introduced to England. This happened at a
25 time when the royal household could very well do with
26 more income, and^{the} two went together very nicely. That
27 started the ball rolling at least in the English speaking
28 world.

29 That may sound like a lot of nonsense,
30 Mr. Chairman, but it is about as good an explanation as



1 any I have ever heard. Tobacco is an easy commodity to
2 control.

3 THE CHAIRMAN: I am delighted with your
4 explanation; it is the first time we have had Sir Walter
5 before us.

6 MR. CALDER: I regret I cannot bring him
7 to substantiate this testimony.

8 COMMISSIONER PERRY: Mr. Chairman, I have
9 a few questions, but I am afraid they are not very well
10 organized. They just grow out of the previous points.

11 It has always impressed me that many of the
12 European countries not only tax this industry to death,
13 but in some cases have taken it over and operate it
14 now as a state monopoly. One does not think that
15 James I had this much influence.

16 MR. RUFFO: It is quite true that in
17 France and in Italy this has happened; however, I
18 cannot really justify the action by those governments
19 in taking over the tobacco industry, except to say that
20 this might be an extreme form of control of a very
21 lucrative item in terms of tax revenue. And to put it
22 another way, the manufacturer shows so little profit on
23 the over-all expenditure by the consumer, that the
24 governments might have thought they should complete the
25 job and take over any profits that might fall to the
26 industry.

27 I believe the situation in Europe is a little
28 different. Many of the countries have no domestic
29 tobacco growing industry, as has Canada, as Mr. Calder
30 has already pointed out. We grow most of our tobacco,



1 except for some importation of rare tobacco from Asia.
2 This is also true for the United States, where they
3 grow most of their tobacco. The only fair comparison,
4 to our minds, is with the United States, where you
5 have a completely domestic industry.

6 COMMISSIONER PERRY: I ask a completely
7 different question, about the present productive capacity
8 of the Canadian industry. Is the capacity being
9 completely used at the present time? Are there any
10 figures on the industry as a whole?

11 MR. CALDER: I don't believe there are
12 any figures for the industry, but we can speak for our-
13 selves. We have additional productive capacity
14 available in the plant we built at Guelph some four
15 years ago. We are increasing the production of that
16 plant at the present time, but it still has some
17 additional capacity, and we assume that as some
18 improvements are made in the techniques of manufacture
19 and the like, it is possible that some of the existing
20 plants of our own, and no doubt competing companies,
21 will be able to increase their productive capacity
22 without the necessity of large expenditures on brick and
23 mortar, although there may be some expenditures for
24 machinery.

25 COMMISSIONER PERRY: You do refer rather
26 vaguely to the current changing social attitudes
27 towards smoking, and I suppose that remark might be
28 extended to include changing medical opinion about
29 smoking as well. What now appears to be an overt
30 expression of view by the Canadian medical profession



B-11

1 must be giving you some concern. So, this would have
2 to be a factor to be taken into account in judging
3 future consumption.

4 Another point that is completely unrelated
5 to these separate and isolated points, is the possibility
6 that any reductions that are made in the federal tax
7 might quickly be absorbed by the provincial governments.
8 As you are probably by now quite painfully aware,
9 Manitoba has taken a very considerable step, no doubt
10 in anticipation of your presentation today. One would
11 have to admit, I think, that this is a real possibility.
12 I am not trying to lead you here.

13 MR. CALDER: We recognize that possibility,
14 Mr. Perry. We also feel that the same is true with
15 respect to a great many other fields. The first
16 instance is that of personal income tax. We feel it
17 is a defeatist attitude to say that it is no use
18 making representations with respect to federal taxation,
19 because if federal taxation is reduced the provinces
20 will simply take up the slack.

21 This assumption that the right level for
22 taxation is the point of the ultimate highest return
23 of revenue to whatever taxing authority may be involved,
24 is not in our view a proper assumption. We contend that
25 is not a proper level. What is needed is equity,
26 rather than how much blood can be taken from the stone.

27 If that point of view were to be applied
28 you could never expect a reduction in personal income
29 tax or in corporate income tax, or for that matter in
30 sales tax or anything else, because all the provinces have



1 an equal opportunity to participate in these same
2 fields.

3 Like so many problems, we feel it is a
4 matter of making sure that everyone who has an opportunity
5 of influencing these matters also has a realization
6 of what is fair, valid, just and equitable. It may be
7 impossible to get ten provinces to see the thing the
8 same way, but some of them may recognize these truths
9 as we believe them to be. So, we consider it a
10 defeatist attitude to sit back and say nothing can be
11 done.

12 COMMISSIONER PERRY: One aspect of this
13 question that used to be watched with some interest
14 in Ottawa was the relationship of the consumption of
15 ready-made cigarettes to what used to be called "roll-
16 your-own." I do notice that the consumption of
17 manufactured tobacco per capita has been steadily
18 declining -- I am looking at the table on page 14 --
19 whereas the consumption of ready-made per capita has
20 been increasing. This used to be regarded as an invariable
21 indication of the state of the economy, particularly in
22 the lower level income groups.

23 Does there seem to be a trend which you
24 expect to continue?

25 MR. CALDER: Mr. Browse, would you like
26 to answer that question?

27 MR. BROWSE: As we look ahead, we can see
28 the use of manufactured tobacco per capita dropping
29 down to about the one-pound level. Over a shorter range
30 we have already got down to one-and-a-quarter pounds.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

802

B-13

1 It is quite true that there is a displacement,
2 if there are changes in the economy of the country,
3 between the smoking of what we call tailor-made
4 cigarettes and hand-rolled cigarettes.

5

6

7 --

8

9

10 --

11

12

13

14 --

15

16

17

18 --

19

20

21

22

23 --

24

25

26

27

28

29

30



B/je

1 COMMISSIONER PERRY: I have one final point.
2 Have you in your own interests attempted to make any
3 surveys in the market of the factor of price as such in
4 connection with the consumption of tobacco products?

5 MR. BROWSE: We have had some experience
6 in the matter of effective market price, but not through
7 any survey work that we have done. The industry
8 for countless years has attempted at all times to
9 produce and sell its product at the lowest possible price,
10 but we have not engaged in any survey work such as
11 has been engaged in, for example, by the cosmetic
12 manufacturers who endeavour to decide whether a
13 certain article which costs 50 cents would sell better
14 for \$2 than for \$1. Is that what you had in mind,
15 Mr. Perry?

16 COMMISSIONER PERRY: Yes, that is right.
17 Those are all the questions I have, Mr. Chairman.

18 THE CHAIRMAN: There is just one more
19 question that I have, and it is with respect to the
20 changes in tax that have occurred, I see, four times.
21 It went down twice and up twice, according to Appendix F.
22 These changes have, I assume, been passed on to the
23 tobacco consumer. You have indicated that your submission
24 is made on behalf of the consumer and I take it,
25 therefore, that if there were reductions in tax the
26 consumer would get the benefit of them. I am just
27 wondering if you can state whether the smoker has
28 received the benefit or the penalty promptly in respect
29 of the four changes that have occurred since 1950-51.

30 MR. CALDER: I do not want to answer that



1 question hastily because in the total tax we have sales
2 tax involved too, of course. One of the points that
3 we did not make in our brief and that we might have
4 made is that sales tax applies on the excise duty,
5 and there may be some play in there. Do you feel you
6 can answer that specifically, Mr. Browse?

7 MR. BROWSE: Well, by and large any change
8 that is reflected in taxation levels is passed on almost
9 immediately to the consumer. With respect to these
10 four changes, however, there is one exception, and this
11 has been, I think, typical of the industry in some
12 earlier instances. When we were faced with the tax
13 increase of 1951 I think in our forecast of what would
14 happen at that time we foresaw such increases as would
15 eventually be reflected in the manufacturer's price,
16 and a decision was made at that time to do nothing other
17 than increase the price by the exact amount of the tax,
18 and ride the thing out for as many months as possible
19 in an attempt, you might say, to minimize the impact
20 of the increase in tax. The reverse, of course, is
21 true. When the government of the day has seen fit
22 to reduce the levels of tax on our product -- and there
23 have been times when there has been a reduction in
24 federal excise tax -- the manufacturing industry has
25 again, in forecasting the possible impact on volume,
26 tried -- and in one particular year, as you will see,
27 was successful -- to persuade itself to add further
28 decreases, or to make a decrease in the manufacturer's
29 cost at that time, so as to maximize the effect of the
30 decrease.



1 COMMISSIONER WALLS: I wonder if I might ask
2 a further question?

3 THE CHAIRMAN: Yes.

4 COMMISSIONER WALLS: You suggest as an
5 alternative to a reduction of the tax on cigarettes
6 that we tax services. Would you care to state which
7 services you recommend should be taxed?

8 MR. CALDER: We have not made a study of this
9 at all. We have rather felt that this was something
10 that a number of people putting in submissions would
11 probably deal with. We have rather looked at the
12 services over-all, as was mentioned in our presentation.
13 We have looked at this matter of the service area,
14 and I think Mr. Ruffo can tell us that the figures given
15 there are really not as great as they should be. Is
16 not that so, Mr. Ruffo?

17 MR. RUFFO: Well, the trend is under-
18 estimated in the sense that we, I think, took the years
19 1952 to 1962. In 1956 the government quite logically
20 reclassified two services, namely, gas and electricity..
21 These are now in the commodity groupings. Whereas
22 they were in the service grouping in 1952 they are now
23 in the commodity grouping and, therefore, the trend
24 with respect to services is underestimated. This
25 regrouping is consistent with the definition of "services"
26 throughout the ten-year period.

27 COMMISSIONER WALLS: I would like to ask one
28 final question mainly as a matter of information in order
29 to assist in assessing the efficiency of the industry that
30 is mentioned in your brief. Do cigarette smokers



1 constantly change brands, and is that the reason for
2 the multiplicity of brands that manufacturers find
3 necessary to bring out?

4 MR. BROWSE: There is a considerable amount
5 of switching that goes on at all times, Mr. Walls.
6 We try to assess this in some detail on a per brand
7 basis, and that is, of course, classified information.
8 However, the number of brands is very often the result
9 of the manufacturer's striving to share in the market.

10 COMMISSIONER WALLS: Do you not guide
11 that demand by advertising yourselves quite often?

12 MR. BROWSE: Not necessarily to a multi-
13 plicity of brands, no, sir. In fact, our advertising
14 is towards the contrary. We try to deploy our ad-
15 vertising towards relatively few brands. It is a
16 question of simple economics of manufacturing. If we
17 were able to progress in the industry with the manufacture
18 of only one brand then we would do so much more
19 economically than if we had to manufacture ten brands.

20 MR. CALDER: I think it could be said that
21 this is a pretty widespread development -- this multi-
22 plicity of brands, or the trend in that direction.
23 For many years, in most countries there has been a
24 stability, if you like, in brands. There has been the
25 odd new brand brought out once in a while, but certainly
26 you can say that in the past five or six years, not only
27 in Canada but in other countries too, there have been
28 more new brands introduced and put onto the market
29 than in the preceding 20 years. Of course, the trend
30 towards the filter type of cigarette has been very marked,



1 not only in Canada and the United States but in a
2 number of other countries too, and this has resulted
3 in many instances in new brands. However, in some
4 instances, the filter cigarette is a companion piece
5 to an established brand.

6 These are the factors which have led to
7 the multiplicity of brands, which is something we do
8 not try to promote because it creates great difficulty
9 in the marketing area. We do not want any more brands
10 than we think the consumer wants. We are not trying
11 to push them on him, but, on the other hand, if we
12 feel that a new brand or a new type of thing would be
13 attractive to the consumer then we try to give it to
14 him.

15 Can I just make one more remark in
16 connection with this matter of tax reduction and price
17 reduction?

18 THE CHAIRMAN: Yes.

19 MR. CALDER: I think the best instance, and
20 the only instance -- at least, the most recent instance--
21 of tax reduction was in 1952-53. If my recollection
22 is correct, with respect to the reduction in 1952 we
23 simply reduced the price by the amount of the tax
24 reduction. In 1953 the tax reduction was the equivalent
25 of four cents a pack, and the reduction made by the
26 industry was six cents.

27 We have for some time, and also in submissions
28 to the Minister of Finance, said categorically that
29 so far as the Imperial Tobacco Company was concerned
30 if there was a reduction of \$1 a thousand that would be



1 immediately reflected in the price to the consumer.
2 But, this is the sort of thing which you can only say at
3 a particular time having regard to particular conditions,
4 otherwise you get yourself into a position where you
5 could never adjust to any other economic changes.
6 Obviously, it would appear to be a fraud if after
7 getting a tax reduction of \$1 a thousand you were
8 to reduce your prices, and then four months later put
9 them up. Someone would say that you might have done
10 it at the same time and passed on only half the tax
11 reduction. You can get into a difficult area in this
12 respect. If you want to be honest and to appear to
13 stand by what you say you cannot come out flat-footed
14 and say that for all time a tax reduction will be
15 passed on.

16 THE CHAIRMAN: Mr. Calder, I think that
17 gives me what I was looking for. I was trying to
18 measure the precision by which a reduction in taxes would
19 effect a reduction in selling price. I think you have
20 made it very clear that the principle is that the
21 consumer is affected by tax changes even though the
22 dollars each way may not exactly meet, and that seems
23 to me to be an acceptable proposition.

24 COMMISSIONER PERRY: As this discussion
25 was proceeding I was reminded of the fact that the
26 cigar smoker seems to be back in considerable strength --
27 he was almost disappearing ten years ago -- with the
28 result that the consumption of cigars, as is shown in
29 Appendix F, has almost doubled in the last ten years.
30 I am just wondering why, even though you acknowledge that



1 your main interest is in cigarettes, you are not
2 making more of the fact that this trend started with a
3 very substantial reduction in the tax on cigars in
4 April, 1952 when the price on the lower-priced cigars
5 came down by \$2.50 per thousand. I remember that at
6 that time it looked as though cigar smoking was becoming
7 almost extinct.

8 THE CHAIRMAN: May I suggest that it was
9 at about that time you went to the little cigars, and
10 the people who were smoking cigarettes began smoking
11 the little cigars, and that the volume in dollars was
12 not increased so much.

13 MR. CALDER: I think that is right. Would
14 you like to comment on that, Mr. Browne?

15 MR. BROWNE: Yes. There has been a swing
16 to the smaller cigars. Although the volume in toto
17 has doubled in the past ten years this is not so on a
18 dollar basis. There has been a displacement from the
19 ten-cent cigar to the five-cent cigar, but in speaking
20 of the commencement of some upturn in cigar sales,
21 and hinging it to this tax reduction in 1952, it
22 must be borne in mind that this was a very dramatic
23 reduction in tax on that commodity vis-a-vis comparable
24 reductions that there had been on other tobacco products.
25 This was a reduction of from 25 per cent ad valorem
26 levy down to a 15 per cent ad valorem levy which, in
27 itself, is a rather dramatic change in tax.

28 COMMISSIONER PERRY: Some economists argue
29 that the only tax changes that are worth anything at all
30 are dramatic tax changes. Would you agree with that?



1 MR. BROWSE: Yes. Quite a number of years
2 ago there was a rather detailed study in relation to
3 price change and volume change, and if I remember
4 correctly it suggested that with respect to tobacco
5 products a one per cent change in price would effect
6 only a 0.38 per cent change in volume.

7 I have found that in forecasting work and
8 it has
9 trying to plan ahead/to be almost a major change.
10 It has to be a change of the dimension of six cents
11 a package, such as we were able to look at in 1953,
12 before you can expect any dramatic change in consumer
13 reaction.

14 THE CHAIRMAN: Are there any further
15 questions?

16 Mr. Calder and gentlemen, thank you very
17 much, indeed, for coming here this morning. We have
18 a much better understanding of your industry as a
19 result of this. It may be that we will need a little
20 more help from you as we proceed. We will certainly
21 need to take a careful look at both excise taxes and
22 duties, and it is possible that our staff may get deeply
23 immersed in this and may have to ask you for help.
24 In the meantime, thank you very much for your attendance
25 this morning, and your excellent submission.

26 MR. CALDER: Thank you, gentlemen, for your
27 patience. Certainly, we will do everything we can to
28 assist the Commission with respect to any requests that
29 we receive.

30 ---Recess. ---



H/je
1 THE CHAIRMAN: Mr. Secretary, will you
2 introduce our next witness this morning?

3 THE SECRETARY: The second participant this
4 morning, Mr. Chairman, is Mr. H. Douglas Lightfoot.
5 Mr. Lightfoot is a professional engineer who is
6 presenting a brief which you have before you.

7 I now enter the brief into the record as
8 Exhibit No. 34.

9 EXHIBIT NO. 34: Submission of
10 H. Douglas Lightfoot.

11 SUBMISSION OF

12 MR. H. DOUGLAS LIGHTFOOT

13 APPEARANCE:

14 Mr. H. Douglas Lightfoot.

15 THE CHAIRMAN: Make yourself comfortable,
16 Mr. Lightfoot. There is no need to stand, unless
17 you prefer to do so.

18 MR. LIGHTFOOT: Thank you.

19 THE CHAIRMAN: We are very glad to have
20 you before us today. I think perhaps you are the first
21 engineer who has come before us, so you have that
22 distinction.

23 MR. LIGHTFOOT: That is interesting.

24 THE CHAIRMAN: Where do you come from,
25 Mr. Lightfoot, Quebec City?

26 MR. LIGHTFOOT: I am from Deliers near
27 Beauharnois, on the south shore.

28 THE CHAIRMAN: Would you like us to ask
29 questions of you, or do you wish to add anything to
30 what you have already set out?



1 MR. LIGHTFOOT: I would like to add
2 something.

3 THE CHAIRMAN: By all means.

4 MR. LIGHTFOOT: Then if you wish to ask me
5 questions, I shall be pleased to answer them.

6 THE CHAIRMAN: Very well; you speak first.

7 MR. LIGHTFOOT: One thing that I feel is
8 pretty important to our taxation system and which we
9 do not now have, is some means for each individual
10 to evaluate what taxes he pays. I think I am quite
11 safe in saying that there is no person in Canada who
12 knows how much he pays in taxes. There are certain
13 people who may have tried to guess at what they pay,
14 but I believe this is all they have really done. I
15 do not believe any citizen can properly evaluate the
16 cost of government if he does not know what is its
17 cost to him personally.

18 A person by paying taxes buys government,
19 but he doesn't know what the price of that government
20 is to him either before or after he buys it. This
21 is a strange way of doing business. You certainly
22 wouldn't buy an automobile that way, and government
23 is much more important than an automobile.

24 Therefore, I feel that taxes should be
25 collected in such a manner that every person would know
26 exactly what he is paying.

27 I have suggested here that one method of
28 doing this would be to raise most taxes in the form
29 of income taxation. This is primary, because most
30 people have an income that could be taxed. However,



1 there may be other ways that are equally good -- I
2 don't know.

3 My second point is mainly that I don't
4 believe taxes are distributed fairly. It is
5 hardly fair to ask one man to pay 50 per cent of his
6 income in taxation and another man to pay only 10 per
7 cent. Many arguments can be brought on this, but I
8 don't think you can show that it is fair.

9 Basically, these are the two main points,
10 Mr. Chairman, which I believe should be incorporated
11 in our tax system. I don't see how individuals can
12 properly evaluate their taxes if they are not taxed
13 in this way.

14 THE CHAIRMAN: I presume you feel,
15 Mr. Lightfoot, as many people do, that taxes are borne
16 by individuals, not by companies and not by goods?

17 MR. LIGHTFOOT: This is true. No matter
18 how you work it out, it always comes down that the
19 individual pays the tax. There is no other way. The
20 tax has got to be paid, and it is the individual who
21 pays it. This can't be passed off to somebody else.

22 THE CHAIRMAN: Then you are left as to
23 the choice as to tax, and the suggestion I think you
24 make here is personal income tax, where the taxpayer
25 can see it or feel it, and a commodity tax which would
26 be levied at the point of purchase by the consumer.

27 MR. LIGHTFOOT: Yes. Taxes which are
28 levied at the point of purchase by the consumer are
29 brought out into the open, because the person pays the
30 tax as he buys the goods. This may sound good, but it



1 is difficult for the individual to evaluate this.

2 Take the gasoline tax, for example. I don't
3 think anyone in this room knows how much gasoline
4 tax he pays, yet this is levied at the time he buys.

5 One feature of the income tax system is that
6 at the end of the year you are required to calculate
7 what your tax is. This is a simple calculation,
8 and enables you to know where you stand this year in
9 comparison to last year. Consequently, you are
10 able to evaluate whether your tax has gone down
11 two per cent or has gone up \$200. It enables you to
12 decide whether you will vote for this government or that.
13 "Is it worth \$200 more to me?" If it is worth more I
14 may be prepared to vote for it and pay that much more.
15 I can evaluate it.

16 THE CHAIRMAN: You are opposed to any
17 progression in the tax rate, but presumably you
18 would allow deductions to persons by way of
19 exemption for dependants?

20 MR. LIGHTFOOT: I purposely left this out.

21

22 --

23

24 --

25

26

27 --

28

29

30



E/GB/je

1 There might be equal exemptions, but I am not sure.

2 The main point with respect to exemptions is that I
3 believe each individual should pay some tax. Under
4 our complicated system now everyone pays some tax.

5 No one knows how much, but everyone pays it. I do
6 not believe anyone should get away without paying any
7 tax, even if he does not know what it is. Each
8 citizen has a responsibility to his country, even
9 if his only responsibility is the paying of taxes. I
10 do not think exemptions should be arranged so as to
11 exclude large blocs of people from paying taxes.

12 There is justification for certain exemptions, such as
13 in the case of a person whose income is so low that
14 the collecting of the tax would cost more than it is
15 worth. Taxation could be ^{cut} off at some arbitrary
16 level.

17 THE CHAIRMAN: I should point out that so
18 long as anyone has any kind of exemption there is a
19 degree of progression.

20 MR. LIGHTFOOT: That is right. This is true.
21 There is no question about that.

22 THE CHAIRMAN: A calculation has been made
23 here. What you are proposing as the uniform rate of
24 income tax, and where you are putting the weight of
25 income taxes, would suggest a flat rate of about 35 per
26 cent.

27 MR. LIGHTFOOT: Yes. That seems a little
28 high to me. I was not able to calculate this too
29 accurately, but from the Canada Year Book of 1960 I
30 noticed that corporation income and personal income came



1 to about \$30 billion. The expenditures for that year
2 were about \$6 billion. Excluding the exemptions this
3 would indicate a rate of about 20 per cent. I do not
4 know whether in the other 15 per cent someone has
5 added in the exemptions. I do not know how that figure
6 of 35 per cent was arrived at. It seems a little high,
7 but I may be wrong.

8 THE CHAIRMAN: The corporation and personal
9 taxable incomes amounted to approximately \$30.1 billion
10 and the total federal tax revenue required was in the
11 order of \$5 billion. If 25 per cent of this was raised
12 by taxation at a uniform rate the rate would be 35 per
13 cent.

14 MR. LIGHTFOOT: This may not be bad. This
15 would come as a shock to other people -- I realize that --
16 but, of course, everyone would be paying his fair share.
17 If someone did not like this rate the thing would be
18 to get at the cause of the taxes, and decrease the
19 spending.

20 THE CHAIRMAN: I think we ought to recognize
21 that the social behaviour of people on taxation
22 at 35 per cent, or even at 25 per cent, starting at, say,
23 above the first \$3,000, would have some pretty serious
24 consequences.

25 MR. LIGHTFOOT: Yes, this is true, and maybe
26 this is what we need. I am not quite sure of that, but at
27 least the people would realize what tax they are paying.
28 They do not know that today. I am sure that if everyone
29 today could know what he paid in taxes in the year there
30 would be a social upheaval too. But, at least, personal



1 income in 1960 was about \$1.7 billion and expenditures
2 were \$6 billion. \$1.7 billion is a relatively small
3 percentage of \$6 billion, so almost three-quarters
4 of the taxes were hidden. I am sure if your income
5 tax went up by a factor of four you would be annoyed.
6 This is my main point. Not a single person in the
7 country knows how much tax he pays. You cannot cut
8 it in any other way. I believe that any other tax
9 system has to bring this out.

10 COMMISSIONER WALLS: I noticed that you
11 were sitting through the last hearing, Mr. Lightfoot.

12 MR. LIGHTFOOT: Yes.

13 COMMISSIONER WALLS: In view of that do
14 you not favour non-essentials such as liquor and
15 tobacco contributing heavily to government expenditure?

16 MR. LIGHTFOOT: No. I do not feel we
17 should have sales taxes or excise taxes. The main
18 point here is that these taxes -- no person can evaluate
19 these taxes. This is another area in which your
20 taxes are hidden. You do not know what they are.
21 What difference does it make whether we tax them or
22 not as long as we know what our taxes are going to be.

23 COMMISSIONER WALLS: What about a situation
24 such as you had in England in the nineteenth century
25 where if you were able to buy liquor for, let us say,
26 under a dollar a bottle, it was said that you would have
27 great intoxication throughout the country?

28 MR. LIGHTFOOT: I do not really believe that
29 the tax on a bottle of liquor has any great effect on
30 the morality of the people of our country. If it did I



1 think we would be in a pretty rough shape.

2 COMMISSIONER WALLS: You oppose the
3 withholding feature of our income tax system at the
4 present time. I do not quite understand your argument
5 there, because when you get your T-4 slip you know
6 exactly what you have paid.

7 MR. LIGHTFOOT: That is true. I am
8 willing to withdraw that particular section. I have
9 done a lot of thinking about this withholding feature.
10 It does tend to hide a little bit -- and you might
11 consider that -- but on the other hand it does make it
12 easy for people to pay their taxes, and it does provide
13 the government with a regular income. I did quite
14 a lot of thinking after I put that in, and I am willing
15 to withdraw that feature. This really does not matter
16 too much. The other two points are much more important.

17 COMMISSIONER PERRY: Mr. Lightfoot, I am
18 intrigued with this thought that of all the expenditures
19 that one makes in the year one should be fully informed
20 only of one's taxes. I have no idea of how much I have
21 spent on food and clothing during the year, and these
22 are pretty essential expenditures.

23 MR. LIGHTFOOT: That is true. You have no
24 idea, but you can find out if you want to. You could
25 not find out how much tax you pay. All you have to do
26 is to keep your slips from Steinberg's and your
27 clothing bills and add them up at the end of the year.

28 COMMISSIONER PERRY: This is a rather
29 personal matter, but when my wife says, "This beef cost
30 \$1.35 a pound", I say, "Is that good or bad?". I do not



1 know whether \$1.35 a pound is good or bad, and I might
2 react in the same way if I was informed that last year
3 the government had cost me \$18,000. I would say, "So
4 what?". You would like to put this to the test, I
5 suppose?

6 MR. LIGHTFOOT: Yes. You would know what
7 \$1.35 a pound for beef meant if you were buying beef
8 all the time. You leave this to your wife. However,
9 you are paying taxes all the time and presumably you
10 are interested in this. If you were interested in
11 beef you would know what \$1.35 a pound meant.

12 COMMISSIONER PERRY: Would I not have
13 to have quite a bit of other information as well? Would
14 I not have to know what it would cost me to have a tutor
15 for my child, and what it would cost me to build my own
16 highways, before I could make an intelligent judgment
17 here?

18 MR. LIGHTFOOT: No. I think that is extending
19 the argument into an area that does not mean too much
20 really.

21 COMMISSIONER PERRY: Just a mere amount of
22 money by itself is not going to tell me very much.

23 MR. LIGHTFOOT: Is there any other way by
24 which you can intelligently evaluate what your taxes
25 mean? This is not going to insure that people are going
26 to intelligently evaluate their taxes, but without knowin-
27 how much it is they have not a hope of evaluating what
28 their taxes are. If you have not that figure you cannot
29 say it is too much or too little; you do not know what
30 it is.



1 COMMISSIONER PERRY: I agree it is a
2 beginning, but in order to achieve this kind of
3 information your proposal is that we turn the whole
4 tax system inside out. I am wondering whether it is
5 worth it.

6 MR. LIGHTFOOT: I do not know whether it
7 means turning the tax system completely inside out.
8 As you said, knowing what your taxes are is a start.
9 Where else would you start? When you go to buy an
10 automobile, for example, one of the first things you
11 ask is the price. When somebody comes in with a
12 health insurance scheme the first thing you ask is the
13 price. Perhaps you are told that the price is \$200
14 million a year, but you do not know what that means to
15 you. If you could say: "Okay, that means that I am
16 going to pay \$250 more in taxes this year", you can
17 then say: "It is worth it to me", or "It is not worth
18 it to me". You have some better idea of what it means
19 to you. Right now you have absolutely no idea of what
20 it means to you, and neither has anybody else.

21 THE CHAIRMAN: What you are advocating, I
22 suppose, is at the municipal level. When our municipi-
23 palities talk about spending money for large capital
24 projects one can translate that into what appears on his
25 own tax bill; is that correct?

26 MR. LIGHTFOOT: I believe so, yes.

27 THE CHAIRMAN: That is, generally speaking?

28 MR. LIGHTFOOT: Yes, I believe that is true,
29 but this does not occur with respect to most of our
30 government expenditures. We have no idea of how it



1 translates down to us.

2 COMMISSIONER PERRY: I am afraid I am putting
3 you a little bit on your mettle because I have spent a
4 great deal of my life in trying to educate people on
5 taxation, and I have almost concluded that they are not
6 very much interested.

7 MR. LIGHTFOOT: What you say is quite true.
8 One thing that happened to me was this; I mentioned
9 to a friend that I was going to appear before the
10 Royal Commission on Taxation, and a look of wonderment
11 came on his face and he said, "What's the matter? Are
12 you having trouble with your income tax?".

13 THE CHAIRMAN: It is an intensely personal
14 matter, is it not?

15 MR. LIGHTFOOT: Yes, and you are quite right
16 when you say that not too many people are interested,
17 but for the people who are interested there is no way
18 of finding out what they pay. There is a possibility
19 that you might have more people interested if they could
20 find out what they had to pay, but I will not guarantee
21 it.

22 COMMISSIONER WALLS: You rather intimate
23 that the government, knowing a lot of its revenue is in
24 hidden taxes, are much more ready to pass legislation
25 that involves expenditure than they would be otherwise.
26 But, do you not think it is the public demand for
27 increased government services that governs the political
28 decisions with respect to increased spending rather than
29 the knowledge by the government that it can be covered
30 by indirect taxes?



1 MR. LIGHTFOOT: Yes, what you have said is
2 exactly right. It is public demand for these things.
3 Everyone wants an automobile, but as soon as they find
4 out what the price is then they have second thoughts
5 about it. Right away they decide whether they have
6 enough money, and whether they want to put out that
7 money to buy an automobile. Then it becomes a matter
8 of deciding whether they want a Chevrolet or a
9 Cadillac. Under our taxation system with taxes hidden
10 in sales taxes you have no idea of what the price is.
11 We just want it, but we do not know what it costs us.
12 We want it, and there you are. We have it.

13 COMMISSIONER MILNE: I have a question to
14 ask you, Mr. Lightfoot. I was wondering how it would
15 work out if your suggestion that all the tax be on
16 income were put into effect. The logical conclusion
17 then would be that commodities would be sharply reduced
18 in price to the consumer.

19 MR. LIGHTFOOT: Yes, that would be true.

20 COMMISSIONER MILNE: Now, in what manner would
21 the consumer and the general public know that the
22 proper relationship of reduction has come to them in
23 the price? Do you follow me?

24 MR. LIGHTFOOT: Yes. What you are saying,
25 I believe, is if the 50 per cent tax on something is
26 removed the price should drop by 50 per cent, and how
27 will the customer know this?

28 COMMISSIONER MILNE: Yes.

29 MR. LIGHTFOOT: There is no way for the
30 customer to be absolutely sure unless he is intimately



1 familiar with the particular product. However, there
2 is one part of our economy that ensures he is going
3 to get that, and that is the competitive feature.
4 If one particular manufacturer says: "Okay, I will take
5 half of this, and pass on 25 per cent", and another
6 manufacturer says: "I am going to take only ten per
7 cent", then one manufacturer's price will be lower
8 than that of the other, and the forces of competition
9 will come into effect, and this matter will equalize
10 itself.

11 According to the newspapers, someone
12 recently brought out the point before this Commission
13 that in respect of one particular item an excise tax
14 of ten cents had increased to 19 cents by the time
15 the article reached the consumer. This is a fine
16 theory, but it neglects the competitive feature of
17 our economy which eliminates this sort of thing and makes
18 it not true. The same forces apply in what you are
19 implying there.

20 COMMISSIONER MILNE: I had another thought
21 too, not related particularly to that. If a system
22 of "one tax principle" went into effect, and having
23 regard to the fact that we have across the country a
24 great number of what are called small businesses, do
25 you not think there would be a staggering effect on the
26 economy at the time this change went into effect? I
27 know you have withdrawn your point with respect to
28 withholding tax, but in the first few months of the
29 changeover do you not think there would be a staggering
30 effect on the small businessmen, or those who are running



1 small businesses?

2 MR. LIGHTFOOT: Yes, there might be, and this
3 would call for a scheme of staging-out. You would have
4 to have a system whereby the first part went into effect
5 this year, and the second part next year, and so stage
6 it out.

7 On the other hand, it is difficult to say
8 just how these things should be put into effect. The
9 tax system has a staggering effect on the economy now.
10 I do not know whether it would matter too much if you
11 made a sudden change. Such a system has to be sold
12 to the public, and this presents problems too. Perhaps
13 by taking it in stages would be a much better scheme.
14 Certainly, our taxation system as it is today was
15 brought about slowly and by changes. I read a note
16 in the newspaper the other day stating that when income
17 tax was introduced into Canada in 1917 it was a
18 proportionate tax. It was four per cent on incomes
19 above \$2,000 for single people, and above \$3,000 for
20 married people. That is basically what I am advocating
21 here in my second point.

22 COMMISSIONER PERRY: As a matter of fact,
23 Mr. Lightfoot, there were these basic rates of tax, but
24 in addition there was a progressive schedule which applied.

25 MR. LIGHTFOOT: I did not know that. The
26 article did not cover that.

27 COMMISSIONER PERRY: It was a little bit of the
28 English system. There were these standard rates that
29 applied to everyone, but in addition there was a pro-
30 gressive rate schedule for which there were different



1 exemptions.

2 MR. LIGHTFOOT: I did not know that.

3 COMMISSIONER WALLS: Further to the question
4 that Mrs. Milne asked you, I think you would have to
5 follow your program on a graduated scale basis because
6 you realize that if you started a withholding tax you
7 would still be selling goods for many months afterwards
8 that had already been taxed at the manufacturing level
9 by sales tax. You would have extreme double taxation
10 for quite a period, would you not?

11 MR. LIGHTFOOT: Yes, I guess possibly you
12 would. I do not know whether this would be a large
13 amount. Certainly we have a good many cases of double
14 taxation in our economic system that have been going
15 on for a good many years, and we have done nothing
16 about them. I do not feel that a small additional
17 extension of double taxation would do too much harm.
18 We have a lot of it now, and this could certainly be
19 eliminated after a short period. During any transition
20 period there are going to be times when things are
21 a little upset, and not quite the way you would like them.

22 COMMISSIONER PERRY: This is a refreshing
23 presentation, at any rate. Most of the previous
24 witnesses who have made recommendations have urged less
25 income tax and more indirect taxes, or more consumer
26 taxation.

27 MR. LIGHTFOOT: Well, this is a popular
28 trend, but my brief suggests that I do not feel it is
29 in the best interests of our country. One thing I would
30 like to say is that some of the briefs, from what I have



1 gathered from the newspapers, have dealt with the
2 whole taxation system and others have dealt with certain
3 parts of the taxation system. Some briefs appear to
4 deal with the distribution of inequalities in the
5 system, rather than the elimination of them. I hope
6 in your studies of this system you will not be
7 proposing a redistribution of the inequalities in the
8 system, but rather the elimination of them.

9 THE CHAIRMAN: Thank you very much indeed,
10 Mr. Lightfoot. Whether or not we fully accept and
11 recommend what you have put before us is slightly
12 beside the point. You have certainly made an impact,
13 and I can assure you that we will examine your thesis
14 with great interest. We have discussed in the past
15 the desirability of taxes being brought to light.
16 Certainly there is merit in that; whether there is
17 sufficient merit to justify the upheaval you propose at
18 the moment, we do not know. However, we will examine
19 the matter and before we report we will give serious
20 consideration to what you have put before us.

21 Thank you very much for appearing before us
22 this morning. You have been very helpful.

23 MR. LIGHTFOOT: Thank you for giving me
24 the opportunity to do so. I very much appreciate it.

25 THE CHAIRMAN: Have we anything further?

26 THE SECRETARY: This concludes the hearings
27 in the City of Montreal, Mr. Chairman. The Commission
28 will reconvene in the City of Toronto on Wednesday,
29 May 1st.

30 ---Adjournment.



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

1
2
3
4 ROYAL COMMISSION ON TAXATION

5 Hearing held in Howard Ferguson
6 Auditorium, Sir Daniel Wilson
7 Residence of University College,
8 University of Toronto, Toronto,
9 Ontario, on Wednesday, the 1st
day of May, 1963.

10 COMMISSION:

11 MR. KENNETH LeM. CARTER -- Chairman

12 MR. J. HARVEY PERRY

13 MR. A. EMILE BEAUVAIS

14 MR. DONALD G. GRANT

15 MRS. S.M. MILNE

16 MR. CHARLES E.S. WALLS

17 LEGAL ADVISER:

18
19 MR. J.L. STEWART, Q.C.

20 RESEARCH DIRECTOR:

21
22 PROF. D.G. HARTLE

23 SECRETARY:

24
25 MR. G.L. BENNETT
26
27
28
29
30



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

i

ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May I, 1963

TOPICAL INDEX

VOLUME No. II

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a) <u>INTRODUCTION:</u>		
	Opening remarks of the Chairman	828
(b) <u>Submission: Of</u>		
	<u>Mr. Wolfe, D. Goodman,</u> <u>(a practising lawyer)</u>	828
7	Business Income Taxation - Losses	835
13	Corporate Income Tax - Corporate, accumulations and distribution	851 / 881 886, 889, 892
14	Corporate Income Tax - Double Taxation, Dividend Tax Credit	853, 861, 862 / 871, 892
15	Corporate Income Tax - Rates, Associated Companies	853, 854, 877 898 / 902
22	Excise Taxes, Excise Duties	905 / 922
31	Partnerships, Proprietorships	855, 856, 867
32	Personal Corporations	869, 872, 876, 871, 881, 895
33	Personal Income Tax- Capital Gains	885
35	Personal Income Tax- Exemptions and allowances	850
37	Personal Income Tax- Lump sum and fluctuating Incomes	832 / 851
46	Sales Tax - Federal	905 / 922
47	Sales Tax - Provincial, Municipal	905 / 922
49	Tax Administration	865, 888, 889
51	Tax Exempt Entities	877
53	Taxation Non-Residents	878



Mr. Wolfe, D. Goodman

Volume No. II

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(c)	<u>SPECIFIC DISCUSSIONS:</u>	
	Preamble	828, 831
	Qualifications and occupation of the participant	832
	United States proposed scheme for averaging of individual incomes, principles advanced adaptable to Canada.	833, 834, 840, 841, 842
	Treatment of prospectors, tax wise	835
	Treatment accorded Investors under section 105 of the Income Tax Act	836
	Some points in reference to section 42 of the Income Tax Act; Averaging for farmers and fishermen etc; could be extended to other taxpayers	838, 839, 843, 844
	A reference to "The progressive average system of taxation"	843, 844, 851
	Spreading back recaptured depreciation, applying the averaging principle with reference to sections 43, 36 and 85a of the Income Tax Act	845, 847
	Averaging principle applied to Corporations, a problem due to the "Two step rate structure" of taxation	848, 897, 898
	Professional Income, extent to which income for tax purposes can be controlled	849, 851
	The tax problem of Shareholders in relation to retained earnings of the Corporations, subsequently distributed and devices used to avoid impact of tax	851, 865, 870, 883, 887, 889, 892
	An explanation of dividend stripping or bail-out designations and effects.	853, 855, 870, 874, 887
	No present provision in Income Tax Act to force distribution of earned surplus or retained earnings, a loss revenue, and a reference to application in other countries	854, 855, 858, 868, 889
	An example of disparity in distribution of Corporate Income in respect to Preferred and Common shareholders	859
	Income Tax Act provision relating to tax credit on dividends does not provide full relief	861, 864
	Corporations, a question of a flat rate v/s the principle of progressive rates, be extended to corporate taxable income, effect of in respect to shareholders interests, tax wise	861, 862, 866, 866, 868, 881, 891, 897, 901
	Capital Gains Taxation, viewpoint of	869, 870, 885
	Suggestion, dividends to shareholders be taxed at ordinary Corporate rate	871, 873, 882

ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May I, 1963

Mr. Wolfe, D. GoodmanVolume No. II

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(c)	<u>SPECIFIC DISCUSSIONS (continued)</u>	
	Tax Exempt Corporations	877
	A point of reference to Holding Companies in relation to taxation	879 / 882
	Diversified Investment Companies, a source of personal interest exemplified	880
	The United States philosophy of " Business purpose" in relation to tax	890
	Capitalization of Undistributed Income, Section 105 and sub-sections thereof of the Income Tax Act, its application and inequities	891 / 896
	Ramification of the Associated Corporations for tax purposes	901 / 903
	Court costs and Income Tax appeal costs, disallowances and allowances of as a business or personal expense in computing taxable income	904, 905
	Excise and Sales Taxes problems and the present method and treatment of, in the applications and administration	905 / 922
	Closing remarks of the Chairman	922

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
35	Brief of Mr. Wolfe, D. Goodman	828
36	Brief of The Independent Insurance Agents (Canadian Federation of Insurance Agents and Brokers Association)	923



Toronto, Ontario 828
Wednesday,
May 1st, 1963.

A/MR/dpw1

2 --- On commencing at 9.30 a.m.

3 THE CHAIRMAN: Mr. Secretary, we are all here so
4 bright and early, I think we might as well start the
5 proceedings. You have got us beautifully established in
6 this nice hall of learning and plenty of room for our
7 audience. It is most enjoyable this morning. Would you
8 introduce our visitor to us, Mr. Secretary?

9 THE SECRETARY: Mr. Chairman, Commissioners, this
10 morning we have Mr. Wolfe D. Goodman, who is appearing on
11 his own behalf and is presenting a brief to you. I will
12 enter Mr. Goodman's brief into the record as Exhibit No.
13 35.

14
15 --- EXHIBIT NO. 35: Brief presented by Wolfe D. Goodman.

16
17 THE CHAIRMAN: Thank you, Mr. Secretary. Good
18 morning, Mr. Goodman.

19 MR. GOODMAN: Good morning, Mr. Chairman.

20 THE CHAIRMAN: We are pleased to receive this
21 submission you sent to us. We endeavour to conduct these
22 hearings as informally as is in keeping with efficient
23 proceedings. Sometimes we direct questions ourselves and
24 sometimes we ask Mr. Stewart, our legal advisor and counsel,
25 to do it.

26 In view of the technical nature of what you have
27 submitted to us, and the deep interest we have in it, we
28 believe it should get the best possible treatment and we
29 think that probably this is achieved by using Mr. Stewart.
30 Accordingly, I would ask Mr. Stewart to lead the questions.



1 That will not keep us out. We will join in the questioning.
2 Make yourself as comfortable as you like. You may stand
3 up or sit down, whichever you prefer. If you would care
4 to speak to this in summarizing it, that is all right.

5 MR. GOODMAN: I would like to make a few brief
6 introductory remarks. I think the position of a tax prac-
7 titioner is one that perhaps enables him to make sugges-
8 tions of a technical nature rather than suggestions which
9 deal with fundamental tax or fiscal policy.

10 I have tried to confine my remarks to matters
11 which I believe are of a technical nature which, neverthe-
12 less, involve important questions of tax principle. After
13 all, the purpose of a Commission like this, in my respect-
14 ful submission, is not to review every possible area in
15 which hardship may arise. That is looked after quite
16 satisfactorily by the submission of the Canadian Institute
17 of Chartered Accountants and the Canadian Bar Association.
18 But there are certain questions, and certain representations
19 which may be directed primarily to those who frame tax
20 policies, or to those who advise on tax policies and my
21 purpose was, therefore, to take a number of areas which I
22 think are crucial and to confine my remarks to those areas.

23 Obviously, as a practitioner, I am very interested
24 in taxation generally, but I feel that in these areas the
25 need for reform is considerable and the practitioner may,
26 perhaps, contribute, to some extent, in resolving some of
27 these difficult technical problems.

28 I think the real difficulty in these areas is the
29 attempt to deal with matters on a piecemeal basis without
30 regard to general principles, and this is particularly the



1 case of the income tax where I feel that the areas in which
2 I wish to make representations, primarily those relating
3 to averaging of income, and to the treatment of corporate
4 surplus, represent a recognition by Government that the
5 difficulties have arisen and that inequities have developed
6 in the administration of the Statutes, and instead of
7 attempting to deal with these on the basis of a general
8 principle, on a piecemeal basis, reliefs have been insti-
9 tuted from time to time on no regular or consistent basis,
10 with the result that persons who obtain the benefit of
11 these reliefs are often much better off than the draughts-
12 man of the Statute ever intended them to be.

13 At the same time, a considerable group of people
14 are still deprived of the benefit of any relief where, on
15 principle, this relief ought to be granted. Now, I think
16 this is particularly true of the area of averaging incomes
17 and the problem arises wherever the income of a taxpayer
18 fluctuates fairly widely from year to year.

19 I gave an example in my submission, Mr. Chairman,
20 of a person with taxable income of \$3,000 in 1960, \$4,000
21 in 1961, and \$100,000 in 1962, pointing out that he would
22 pay an income tax for these three years of over \$52,000,
23 whereas a person who earned the same amount evenly spread
24 over these years would pay some \$42,000.

25 Now, this problem is not confined to persons who
26 earn very substantial incomes. It is most acute at the
27 level where the benefit of the tax exemption is lost. For
28 example, a man earning \$1,000 in the first year, \$1,000 in
29 the second year, and \$4,000 in the third year, and being a
30 family man having exemptions of \$2,000, would, on an



1 average basis, be deemed to earn \$2,000 a year and would
2 pay no tax at all. Nevertheless, with our present system,
3 at the present rates he pays taxes of \$250 for the third
4 year and loses the benefit of \$1,000 of exemption in the
5 first and second years.

6 This system operates unfairly for two classes of
7 people. First, the people who cannot incorporate at all.
8 Professional men, artists, entertainers, et cetera; and,
9 secondly, for those unfortunates who have realized what
10 they thought were capital gains but who find, to their
11 regret, that the courts have decided otherwise and who have,
12 therefore, realized in a single year a lump sum far out of
13 proportion to their normal receipts on which the tax may be
14 extreme.

15 Now, Parliament has attempted to deal with these
16 problems, Mr. Chairman, Mr. Commissioners, and has insti-
17 tuted at least half-a-dozen different methods of treating
18 lump-sum receipts. I have referred to four of them in my
19 submission and in my respectful submission, each of them is
20 faulty in that it deals only with a specific type of income
21 and it is faulty, in addition, because it may provide
22 considerable benefits for the person who plans his affairs
23 with this situation in mind.

24 I have attempted to give some technical examples
25 of those, and I think this would probably be a good point
26 for me to conclude my remarks on this particular section,
27 Mr. Chairman, and ask Mr. Stewart if he wishes to ask some
28 questions.

29 THE CHAIRMAN: Thank you, Mr. Goodman. I think
30 it would be perhaps the best way to deal with this if Mr.



1 Stewart agrees, by parts, as you are suggesting to us. Mr.

2 Stewart?

3 MR. STEWART: Thank you, Mr. Chairman. Mr. Good-
4 man, I would prefer to sit down.

5 MR. GOODMAN: Fine, thank you.

6 MR. STEWART: I think it is a little easier. Let
7 me ask, in the first instance, one or two questions about
8 yourself, for the purpose of the record. You are a prac-
9 tising lawyer in Toronto?

10 MR. GOODMAN: Yes. I have been practising since
11 1949 here in Toronto, Mr. Stewart.

12 MR. STEWART: And I take it that a considerable
13 part of your practice is in the taxation field?

14 MR. GOODMAN: Yes, that is quite correct.

15 MR. STEWART: Now then, coming to this question
16 of the taxation of fluctuating incomes, which you have
17 dealt with in your submission, and which you have referred
18 to in your opening remarks, could you tell the Commission
19 whether there is any information available as regards the
20 number of taxpayers in Canada with fluctuating incomes of
21 the sort you have in mind; any information as to the occu-
22 pational groups into which those taxpayers fall, and any
23 information as to the extent or degree of fluctuation of
24 those incomes?

25 MR. GOODMAN: I am afraid I have no statistical
26 information in this regard, Mr. Stewart. However, by
27 inference I must presume that the problem is small in total
28 dollars and cents involved.

29 Nevertheless, it impinges most unfairly on
30 certain types of taxpayers. I think, primarily, the two



1 types of which I have spoken; the professional man who
2 cannot incorporate and whose income may fluctuate consi-
3 derably, and secondly, the person who receives lump-sum
4 payments which he considers to be of a capital nature,
5 which, had he realized that they might be treated as income,
6 might very well have come into a corporation or been
7 received in some other manner.

8 Now, the revenue cost of devices of averaging
9 must be very small. The reason I say that is that in the
10 United States this year President Kennedy has proposed a
11 scheme of averaging of individual incomes, and a statement
12 was made by the U.S. Assistant Secretary of the Treasury,
2 13 Stanley Surrey, on February 28th, 1963. This is a very
14 brief statement. May I just read it, Mr. Stewart?

15 MR. STEWART: Yes.

16 MR. GOODMAN: Because it contains an indication
17 of the small cost. I am quoting from Mr. Surrey's state-
18 ment:

19 "A third structural change under the individual
20 income tax also meets a hardship which rate
21 reduction cannot solve -- that faced by the
22 person with fluctuating yearly income. While
23 fluctuating incomes may be more characteristic
24 of people in certain occupations, such as
25 authors, artists, actors, athletes, ranchers,
26 fishermen, farmers, architects, and individual
27 business proprietorships, it obviously may be
28 experienced in many other situations. The
29 combination of graduated tax rates and an
30 irregular pattern of income produces more tax



1 today over a period of years than does a
2 stable income pattern. The tax program
3 meets this hardship by a uniform averaging
4 formula applicable to all, under which income
5 is, in effect, averaged over a five-year
6 period whenever the current year's income
7 is significantly higher than the average of
8 the preceding four years. The revenue cost
9 is about \$40 million."

10 Now, that is the end of the quotation. Mr.

11 Stewart, \$40 million in the U.S. tax system is a very small
12 sum of money and yet President Kennedy considered that the
13 problem was sufficiently acute for certain classes of tax-
14 payers as would justify a major structural change by the
15 taxing statutes.

16 MR. STEWART: Now, in your submission you gave
17 some examples of cases under the present Canadian legisla-
18 tion where some type of relief is given to people who do
19 have fluctuating incomes. I think you would agree that
20 there are other cases under the Act which are also granting
21 relief?

22 MR. GOODMAN: Yes, there are about two or three
23 others, in addition.

24 MR. STEWART: Could you specify which ones you
25 have in mind?

26 MR. GOODMAN: Yes. There is one for authors,
27 the exact terms of which I do not have; one where sums in
28 the nature of interest which have accrued over several
29 years are received together. Of course, there is the
30 farmers' and fishermen's averaging provisions which, I



1 think, are in many ways a model for future legislation
2 extending the present provisions.

3 MR. STEWART: I have seen it suggested that the
4 present treatment of business losses constitutes another
5 example of this type of thing.

6 MR. GOODMAN: It seems to me that that must be
7 divorced from averaging in the sense it provides, at best,
8 a very partial sort of averaging. As long as the taxpayer
9 is making money each year, no matter how small that amount
10 may be, no relief whatever is granted. Of course, under
11 the loss carry-over provisions the burden of taxation may
12 be considerably higher as a result of inability to average.

13 MR. STEWART: Another example which is sometimes
14 quoted is the treatment of prospectors.

15 MR. GOODMAN: I don't class that as averaging.
16 I consider that this is a type of subsidy to the prospec-
17 ting industry and to the person who finances prospectors.
18 It might be justified on the grounds of economic and social
19 policy, Mr. Chairman, to exempt completely from taxation
20 the gains made by prospectors. I think this is a decision
21 which is irrelevant to the question of averaging because a
22 prospector who is able to find successful claims, or profit-
23 able claims, each year would still be entitled to the
24 benefit of his exemption each year on any profits which he
25 made either by selling claims or selling shares under
26 Section 83.

27 COMMISSIONER PERRY: Mr. Stewart, might I suggest
28 that the treatment of a death benefit is more in the spirit
29 of this sort of averaging -- it is a recognition that a
30 death benefit received in one amount reflects an accrual



1 which is really attributable to a long period of employ-
2 ment.

3 MR. GOODMAN: I would certainly agree with the
4 Chairman in that regard.

5 MR. STEWART: Another suggestion which I have
6 heard, Mr. Goodman, is that the treatment which is accorded
7 investors under Section 105 is, in one sense, a form of
8 averaging.

9 MR. GOODMAN: I suppose in one sense it could be
10 considered to be, Mr. Stewart. I have seen companies which
11 make a policy, year after year, of declaring a cash dividend
12 of a certain amount and a stock dividend under Section 105
13 of 85% of that amount on a regular basis, year after year.

14 I cannot see, with respect, that this is neces-
15 sarily an averaging provision. It may operate as such in
16 a company that has, over a period of years, declared divi-
17 dends and has become entitled to make an election under
18 Section 105; it may then distribute a further amount at a
19 flat rate, which, in that case, it could be considered as
20 an averaging provision but it is not necessarily an avera-
21 ging provision. I would certainly agree. I question
22 whether this is a desirable type of averaging provision,
23 in any event.

24 MR. STEWART: We will come back to Section 105
25 at a slightly later stage, I think.

26 MR. GOODMAN: Yes, thank you.

27 MR. STEWART: This problem of fluctuating incomes
28 and the taxation of those incomes arises, I take it, basi-
29 cally, because we pay income taxes or our income is computed
30 on an annual basis?



1 MR. GOODMAN: Yes, I would certainly agree.
2 MR. STEWART: Now, if, in order to arrive at an
3 equitable assessment of the taxes, we should depart from
4 the annual basis, the obvious question arises over what
5 period should the tax be assessed or computed?

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



B/EMT/sq

MR. GOODMAN: This is a difficult question to

answer I think, Mr. Stewart. On principle one would like to see the situation, or I would like to see a situation in which a person with fluctuating income paid no more income tax over his lifetime than a person whose income was stable. Nevertheless, I recognize that this is administratively impossible to manage.

I think the type of arrangement which was instituted for farmers and fishermen is sound, and as a matter of fact it is exactly this type of principle which is proposed in the United States. The original treasury proposals were rather more limited, but the American Institute of Certified Public Accountants has made recommendations which to my mind look almost identical to our Section 42. That is, every five years the taxpayer is entitled to make an election. If he has never made one before, he could make one in 1963 covering the five years 1959 to 1963 inclusive. Once he has included those five years in an election, none of those years may be included in a future election. He has no obligation to make an election if he does not choose to do so.

For that reason it is sometimes referred to as an optional five-year block averaging, and it seems to me that once a taxpayer has entered the tax rolls, there seems no reason why that may not be considered the first year in respect of an averaging provision. I can see many reasons why a person who has not yet entered the class of taxpayer may not be given that privilege; for example, a student. I cannot see any reason why in the second year in which a former student is employed he would not be able to take



1 advantage of an election in respect of the three years in
2 which he was a student and the two years in which he was
3 employed, but even there I do not consider the matter is
4 terribly serious.

5 I think that once he becomes regularly engaged
6 in a business or a profession, or once he becomes regularly
7 employed, the period during which he may make an election
8 should commence. He may not choose to include the first
9 years. If he does not do so, of course he loses those
10 years forever. He may choose in the seventh year to make
11 an election in respect of the third to seventh years
12 inclusive.

13 MR. STEWART: I take it that you are not thinking
14 of prospective elections. You are thinking of retrospec-
15 tive elections such as we now have in Section 42?

16 MR. GOODMAN: Yes.

17 COMMISSIONER WALLS: The farmer and fisherman provision
18 of averaging is only available to those whose true source
19 of income is either farming or fishing. I take it if you
20 are going to suggest extending the provision to other
21 taxpayers, that you would place no such restriction as to
22 the true source of income?

23 MR. GOODMAN: That is certainly true, Mr. Walls.
24 I would certainly put no such restriction. As a matter
25 of fact, the existence of that restriction has produced
26 some very peculiar results even in the case of farmers and
27 fishermen, because the courts have held in some cases
28 that the expression chief source of income is applicable
29 only to the source which actually produces income during
30 the year. That being so, according to one view of this



1 law, if a farmer loses money in the last year, he has no
2 source of income from farming in that year and therefore
3 he is not entitled to make an election. I do not think
4 this is what Parliament intended, and perhaps it is not
5 the last word on the subject, but Section 42 by and large
6 I think works reasonably well, and I would like to see its
7 principle extended without any reference to source of
8 income at all.

9 COMMISSIONER PERRY: Have you observed that there is
10 any unanimity of view emerging in the American discussions
11 as to the degree of variation that would permit an
12 averaging to take place?

13 MR. GOODMAN: In this particular connection, Mr.
14 Chairman ---

15 COMMISSIONER PERRY: May I correct you. The Chairman is
16 on my right.

17 MR. GOODMAN: I beg your pardon. I have seen you
18 as Chairman at so many meetings, Mr. Perry.

19 COMMISSIONER PERRY: I am quite at home not being
20 chairman.

21 MR. GOODMAN: Mr. Perry, the American Treasury
22 proposal is summarized in the Journal of Accountancy, April
23 1963 issue, together with comments of the American
24 Institute of Certified Public Accountants. I am reading
25 two brief paragraphs from their comment:

26 "The Treasury's proposed plan would require
27 taxable income for the current year exceed 133 1/3
28 per cent of average taxable income for the prior
29 four years and that the excess amount subject to
30



1 averaging exceed \$3,000. Although the \$3,000
2 floor would help to avoid unimportant adjust-
3 ments, the limitation of income subject to adjust-
4 ment to that which exceeds 133 1/3 per cent of
5 the prior year's average tends to reduce the
6 availability of relief. We grant that some
7 exclusion is desirable to avoid refunds from
8 minor fluctuations in income, but it would seem
9 that a 5 per cent exclusion would be sufficient
10 when coupled with a floor of \$3,000.

11 A more serious flaw in the plan is its
12 failure to provide a device that would permit
13 averaging income over a period of years that
14 extends beyond the years in which peak earnings
15 are achieved. Under the Treasury's plan, some
16 relief would be given in the first few years of
17 peak earnings but none would be available if
18 later years were followed by a substantial
19 decline in earnings. This is because the year
20 in which relief is to be granted would always be
21 compared with past years. Our recommendations
22 would overcome this defect by permitting tax-
23 payers to average over selected blocks of five
24 years, with no one year to be included in more
25 than one block of five."

26 That is the end of that quotation. I think
27 that may assist to some extent.

28 COMMISSIONER PERRY: Yes, thank you.

29 MR. STEWART: I am not quite clear myself,
30 Mr. Goodman, as to the significance of the last sentence



1 or two of what you read. Under the proposals referred to
2 there when you talk about selective blocks of five years
3 are these to be consecutive years?

4 MR. GOODMAN: They are to be consecutive years,
5 and as I understand it, the American Institute recommends
6 a prospective election as well as a retrospective election.
7 I do not think I would be prepared to recommend that
8 myself for administrative reasons, but I believe that if
9 a small exclusion were made in order to permit the admini-
10 stration to avoid having to make refunds in unimportant
11 cases, then I would think that once the amount of tax
12 payable on a fluctuating basis exceeded five or ten per-
13 cent or 105 or 110 percent of the tax that would be
14 payable if the tax were spread evenly and the income were
15 spread evenly over the five-year period, that would be
16 quite sufficient to meet administrative needs.

17 MR. STEWART: Going back to this
18 question of cycle, I take it from the point of view of
19 pure logic, if you are averaging fluctuating incomes, the
20 average should be over the period of cycle of fluctuation.
21 Are you suggesting that for our purposes, or are you taking
22 an arbitrary period of five years or some such period and
23 suggesting that all fluctuating income must be averaged
24 if the taxpayer so elects over that arbitrary period?

25 MR. GOODMAN: I would prefer an arbitrary
26 period, Mr. Stewart. It seems to me that cycles are very
27 difficult to identify. They certainly vary from taxpayer
28 to taxpayer, and I should not want to see an arrangement
29 which provided different types of averaging for different
30 types of taxpayers. I think that is our problem at the



1 present time.

2 MR. STEWART: Then in the present
3 legislation in Canada, that is in Section 42 of the
4 Income Tax Act, we have what I believe is called simple
5 averaging. Now, I think there are other types of averaging
6 which have been considered in this connection. One is
7 called the moving average system. There is also I think
8 something called the progressive average system. Are you
9 suggesting here that we adhere to the present system of
10 Section 42; that is, the simple averaging?

11 MR. GOODMAN: Yes. Theoretically there must be
12 some advantage, Mr. Stewart, in a moving average system.
13 I have never been able to understand the progressive
14 average, I must confess. I have studied it, but I believe
15 the theoretical justification would not overcome the
16 technical problems that might be involved in administering
17 it. I think it is much easier to deal with on the basis
18 of five-year blocks.

19 MR. STEWART: What administration
20 problems would you foresee in connection with a scheme
21 of this kind as applied to taxpayers as a whole? What I
22 have in mind is this: Let us suppose a particular tax-
23 payer in 1963 decides to elect to average his income for
24 1963 and the four prior years. I take it that it will then
25 be necessary for him to go back over the four prior years,
26 take into account the difference in income, refresh his
27 mind as to what the applicable provisions of the law
28 were in each of those four years, and recalculate his tax
29 on the new basis.

30 Now, having regard to the amount of relief



1 which will be involved here, is this going to involve the
2 taxpayer and is it going to involve the administration in
3 a tremendous amount of additional work?

4 MR. GOODMAN: I would say this, Mr. Stewart,
5 the administration is already involved in a tremendous
6 amount of work in connection with averaging provisions
7 which are presently available. If some of these were
8 repealed at the time a simple block averaging system was
9 instituted, the net increase in administrative complexity
10 would I think be slight. The gain in equity would be
11 considerable, and it seems to me if it is possible to
12 do it for a large class of taxpayers such as farmers and
13 fishermen, it is quite possible to do it on a very similar
14 basis for a relatively small class of individuals who
15 would be involved here. Particularly, if the relief were
16 restricted to situations in which the tax were, say, at
17 least 110% of what it would be had it been earned evenly
18 over the five-year period.

19 MR. STEWART: Do I take it if such a
20 system were introduced you would regard it as replacing
21 and not simply supplementing the provisions which now
22 exist in the Act for relief to people who have fluctuating
23 incomes?

24 MR. GOODMAN: I think these are undesirable, both
25 mechanically and in principle.

26 MR. STEWART: I have been thinking of
27 your suggestion in relation to the specific examples
28 which you gave in your written submission. I suggest to
29 you if this averaging principle were introduced and became
30 of general application there might still be defects under



1 each of your examples. If you take the first one which
2 has to do with spreading back recaptured depreciation,
3 as you point out yourself, the depreciation which is
4 recaptured may have accrued over a considerable period of
5 years; considerably more than five years.

6 Now, by the same token it may have been taken
7 in only one year, so that if the averaging principle were
8 applied to it, one year's depreciation would be added
9 back over a five-year period.

10 MR. GOODMAN: That is quite correct. The reason
11 that I use this as an example, Mr. Stewart, is that the
12 theory which is ostensibly in Section 43 appears to be
13 one of an averaging nature, based on some sort of five-
14 year average rather than one which is directly applicable
15 to the type of income which is involved in the case,
16 because if the principle of Section 43 was to allow
17 spreading back of the recaptured depreciation over the
18 years in which the depreciation had been taken, there would
19 be some sort of a provision relating to the period of
20 time during which it was held.

21 MR. STEWART: Then by the same token
22 you point out in your second and fourth examples that the
23 individuals you are dealing with on a hypothetical basis
24 can to some extent control the rate of tax which they will
25 have to pay. Now, this same type of possibility would
26 exist if the provisions of Section 36 and Section 85 (A)
27 were replaced by a general averaging provision.

28 MR. GOODMAN: Not to the same extent at all, Mr.
29 Stewart. Let us take an example of this. Take an extreme
30 example, a person who, let us say, arranges to have income



1 of only \$1,000.00 a year for four years. That is all he
2 draws by way of salary from his company. Then he takes a
3 lump sum retirement benefit in the last year of, say,
4 \$100,000.00.

5 On an averaging basis, he has income of \$104,000.00
6 which is approximately \$21,000.00 per year on which tax
7 would be levied, after deduction of his usual exemptions
8 at about \$19,000.00. I think it is about \$4,000.00 in
9 tax. It would be over \$4,000.00. It would be closer to
10 about \$6,000.00.

11 On that basis his total tax would be \$30,000.00.
12 However, under Section 36 his election would be to pay
13 tax at the average rate of tax of the preceding three
14 years. In these preceding three years he pays tax of
15 zero percent, and he would pay the Government of Canada
16 absolutely nothing on this lump sum payment.

17 MR. STEWART: Yes, but under the new
18 system the person who may now be subject to tax under
19 Section 36 could still take steps to minimize the amount
20 of tax he would pay under the averaging principle.

21 MR. GOODMAN: That of course is true, but having
22 minimized the amount of tax he has to pay, he still pays
23 the appropriate amount of tax based upon the total amount
24 of income which he has received during those years.

25 MR. STEWART: But he can control or he
26 may be able to control his income during part of the five-
27 year period and therefore reduces the average on which he
28 pays tax.

29 MR. GOODMAN: Yes, this is true, but having
30 received \$103,000.00 or \$104,000.00 of income, he has to



1 pay tax on that much income, and he pays tax on it on
2 the basis that had he received approximately \$21,000.00
3 a year during each of those years he would have been
4 subject to several thousand dollars of tax in those years.
5 The Government of Canada then collects in the last year
6 the tax that he avoided paying in the early years, whereas
7 under Section 36, in the extreme example which you choose,
8 it certainly follows that having established an average
9 rate of tax in the first three years at a very low level,
10 he can receive any amount of income by way of retirement
11 benefit without paying tax of any higher rate.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



PB/dpw 1 MR. STEWART: Yes, I agree that the situation is
2 not as extreme on the averaging principle.

3 MR. GOODMAN: Yes.

4 MR. STEWART: Do you suggest that this right to
5 average should be confined to individuals or do you suggest
6 it might extend to corporations?

7 MR. GOODMAN: Well, the difficulty here, Mr.
8 Stewart, is, of course, with the two-step rate structure
9 which is presently applicable to corporations. I find it
10 very difficult to defend a progressive income tax as
11 applied to corporations even on the modified basis that is
12 presently in effect; that is, in Ontario, at 23% of the
13 first \$35,000 of taxable income and 52% on the excess over
14 \$35,000. After all, a corporation doesn't eat; it doesn't
15 entertain; it doesn't require a home. The theoretical
16 justification for progressive income tax which might be
17 applicable to individuals, severely criticized though it
18 may be, cannot be applied to corporations.

19 If a flat rate were instituted for corporations,
20 of course, the averaging problem disappears. If our
21 present rate structure is to be preserved I feel that some
22 sort of averaging provision should also be available to
23 corporations because certainly the problem can be an acute
24 one for the corporation which receives income of \$10,000,
25 say, over four years, and \$350,000 in the last year.

26 THE CHAIRMAN: Mr. Stewart, Mr. Goodman has made
27 it fairly clear that he opposes the diminished first rate
28 for corporations so there is little purpose to pursuing
29 his views about averaging.

30 COMMISSIONER GRANT: If I might make an



1 observation, Mr. Chairman: would it be an over-simplifica-
2 tion of this to say whereas the income tax at the present
3 time recognizes the principle of averaging for those who
4 have little or no control over income, that you, Mr. Good-
5 man, would extend this to those who have control over
6 their income but who wish to take advantage of the
7 averaging principle?

8 MR. GOODMAN: No, sir, I do not think that is a
9 fair statement of the position, with respect. There are
10 many people who don't have control over the fluctuations
11 of their income. I know, as a professional man, I am in
12 this position myself. I am not able to incorporate;
13 consequently, I am affected by the fluctuations which may
14 occur from year to year.

15 This is not unique. It applies to every business
16 or professional man that cannot incorporate and whose
17 income may fluctuate very considerably from year to year.
18 In addition, it might apply to the sort of person who, let
19 us say, is in receipt of a salary from a company, several
20 thousand dollars a year, and has an isolated venture in the
21 nature of trade, as a result of which, for the first time
22 in five years, he realizes a sum substantially in excess
23 of the amount he normally receives.

24 Let us say his salary is \$5,000 a year and in the
25 fifth year he realizes a taxable profit of \$25,000 on a
26 land transaction which may have taken five years to bring
27 to fruition but having realized it in a single year then
28 he must necessarily pay tax on the present basis on
29 \$30,000 income in that year.

30 I don't think he is in any position to control



1 the receipt of income any more than a professional man can
2 decide he is going to earn more money or less money in a
3 particular year.

4 COMMISSIONER GRANT: Professional men, lawyers,
5 architects or physicians - would you agree that they have
6 some control over the amount of income which they will have
7 in a certain year? That is to say, if nothing, more
8 or less than through the billing procedure they can control
9 to some extent their earnings over a two-year period?

10 MR. GOODMAN: Over a two-year period that would
11 certainly be true, Mr. Grant. To that extent such persons
12 are in a position to control receipt of their income, but
13 having achieved that measure of control, limited though it
14 may be, they are still in the position that their income
15 over a longer period of time may fluctuate very considerably.

16 MR. STEWART: Mr. Goodman, in Professor Willis'
17 work he suggests, apart from averaging as such, that in
18 certain cases unused personal exemptions should be carried
19 forward, should be capable of being carried forward or
20 carried back for limited periods. You agree that the type
21 of averaging you are now suggesting would look after that
22 situation, and if not, what are your views as this other
23 suggestion of Professor Willis?

24 MR. GOODMAN: I believe the suggestion which I
25 have made, Mr. Stewart, would eliminate the need for carry-
26 over provisions with respect to personal exemptions. If,
27 however, this type of optional block averaging were not
28 made I think, at the very least, the taxpayer at the bottom
29 of the tax ladder should be given the benefit of carrying
30 forward or back his exemption to the extent they haven't



1 been used.

2 MR. STEWART: Mr. Chairman, I think that is all
3 I have to ask Mr. Goodman on this particular point.

4 THE CHAIRMAN: I think it is very easy for us to
5 agree that the principle of averaging provides the best
6 method of determining income for income tax purposes. I
7 would suggest what there is against it is the difficulty
8 to the taxpayer and also to the Department of assessment
9 on this basis. I don't think you can help us very much
10 more with that.

11 MR. GOODMAN: No, I am afraid I can't.

12 THE CHAIRMAN: We will have to look further for
13 that. We propose to do so. Are there any further ques-
14 tions?

15 Let us go on to the next subject, shall we, Mr.
16 Stewart? I think, perhaps, Mr. Goodman would like to intro-
17 duce it.

18 MR. GOODMAN: Mr. Chairman and Commissioners, the
19 problem of corporate surplus is a problem which the layman
20 probably wouldn't recognize under that term. The problem
21 is very easy to understand although the solution may be
22 somewhat difficult. As long as we have a system of taxation
23 of corporations which taxes them upon their profit but
24 does not tax the shareholders until they receive dividends
25 from those companies this problem may arise through the
26 retention of earnings in the company. To the extent that
27 these earnings are withdrawn in large amounts over a few
28 years then very high personal taxes may frequently be
29 imposed upon the shareholders.

30 As a result of this very high taxation a large



1 number of devices have been developed for avoiding the
2 impact of this personal tax. Some of these are spelled out
3 in the Statute in such a way as to make it quite clear that
4 the Government of Canada or Parliament has encouraged the
5 devices. Others, perhaps, might be described as having
6 developed interstitially as a result of the explorations
7 of tax advisors, consultants and lawyers into the ramifica-
8 tions of this peculiar system.

9 Now, I think there were three fundamental bases
10 in our taxation of corporate income and if these principles
11 are kept in mind all the complicated devices become under-
12 standable and I think fairly simple. The basic principle
13 number one is that the undistributed corporate income is
14 not taxed in the hands of the shareholders under our system.
15 There is an exception in the case of personal corporations
16 which are types of family holding companies receiving
2 17 investment income.

18 By and large, a company pays its tax until it is
19 ready to distribute by way of dividends; the shareholders
20 pay no personal income on those earnings. The second
21 principle is that capital gains are exempt from taxation.
22 A capital gain is simply a gain on the realization of an
23 investment and where the proprietor of a company, incor-
24 porated company, after a period of years sells his shares
25 he may reasonably expect that this gain on the sale of
26 shares will be regarded as being a capital gain.

27 The caution of manner of expression there, I think,
28 Mr. Chairman, you will recognize as being part of the
29 conservatism of our profession. The third principle is
30 that inter-corporate dividends, by and large, are free of



1 tax, and this makes sense. If Company A has earned money
2 and paid its corporation tax on it, if the dividends go
3 into another company, Company B, and from there to Mr.
4 Jones, the shareholder, it wouldn't normally be reasonable
5 to impose a tax on Company B on the receipt of inter-
6 corporate dividends from Company A. We would have, in
7 addition to double taxation, triple taxation in that event.

8 These are the three principles upon which our
9 present system stems. They work together, generally
10 speaking, quite well, but they can produce some very incon-
11 gruous results.

12 A classic example of this is where Mr. Jones,
13 who owns all the shares of Company A, which has, over the
14 years, accumulated a substantial surplus, forms a company
15 to carry on, either a branch of the business or to take
16 over the existing business, and sells his shares of the
17 first company to the second company at their fair market
18 value. Until 1950 it was quite possible for dividends to
19 be declared by Company A in favour of Company B, which
20 would be exempt inter-corporate dividends and Company B
21 could use these monies to pay Mr. Jones for his shares.
22 This has been described as a bail-out or a dividend strip-
23 ping.

24 The dividend stripping is the English expression
25 and bail-out the American one. Our complicated legislation
26 dealing with undesignated surpluses in the Statute, Section
27 27, sub-section 1(e), was instituted in order to deal with
28 this situation and it dealt with it by avoiding the appli-
29 cation of the principle of exemption on inter-corporate
30 dividends in respect to the accumulated earnings of



1 Company A dividends acquired by Company B. The same formi-
2 dable system of legislation is probably possible to find in
3 Canada but it is extremely technical, provides a great
4 deal of worry and I think a considerable amount of remunera-
5 tion for tax advisors.

6 I don't think it is the most satisfactory solu-
7 tion to the problem, by any means. The principle reason
8 that it is not a satisfactory solution is quite simple.
9 Ways have been found to get around it. Mr. H. Howard
10 Stikeman of Montreal, a very eminent tax lawyer, some years
11 ago described over a dozen methods by which surplus may be
12 stripped from a company in various manners
13 progressive income tax. I don't think Mr. Stikeman was
14 exaggerating in any way.

15 The problem becomes increasingly serious as years
16 go on and as more venturesome taxpayers who pioneered in
17 this area are followed by those who decide if it is good
18 enough for Jones it is good enough for me. I think the
19 potential loss to the revenue is very large and it is
20 probably quite large already.

21 Our Statute, in addition, does not have any provi-
22 sion at the present time to force distribution of corporate
23 earnings if those corporate earnings are being retained in
24 the company beyond the reasonable needs of the business.
25 We had such legislation until 1950. We had it for 27
26 years, from 1933 to 1950. I understand from Mr. Perry's
27 Study on Taxation in Canada it was hardly ever invoked.
28 Most of the other English-speaking countries appear to have
29 legislation specifically dealing with this subject, and,
30 of course, our problem of dividend stripping or corporate



1 surplus becomes more acute if there is no legislation to
2 force distribution of surplus which is being retained
3 unreasonably beyond the needs of the business.

4 I am quite prepared to admit that I am not very
5 happy about the legislation as it existed in Canada prior
6 to 1950, nor as it exists in other countries. They seem
7 somewhat arbitrary and leave rather more to administrative
8 discretion than I would care to. Nevertheless, the problem
9 is a very real one and the fact that independently a number
10 of countries arrived at the same conclusion, that legisla-
11 tion is required to force the distribution, seems to me to
12 suggest that we were, perhaps, not entirely wise in aban-
13 doning it in 1950 in favour of alternative approaches.

14 I think this, perhaps, would be a good point for
15 me to ask Mr. Stewart if he would then proceed. Am I
16 proceeding at undue length?

17 THE CHAIRMAN: No, this is excellent. I think
18 our timing is just about right.

19 MR. GOODMAN: Fine, thank you.

20 MR. STEWART: Mr. Goodman, on this subject of
21 corporate surplus I would like, if I may, to go back to the
22 beginning on the question of the taxation of corporate
23 income and discuss with you a little bit the principles of
24 such taxation. I think we can agree as far as unincorpor-
25 ated business is concerned if a particular individual
26 carries on as a proprietor of a business or in partnership,
27 applies some of the capital, and perhaps his own labour
28 to a particular business which turns out to be profitable
29 he is stopped simply to one tax on the income of the busi-
30 ness, that tax covering what is paid for his contribution



1 in work as well as the return on the capital that he has
2 employed in the business.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



D/MR/ss

1 MR. GOODMAN: Whether or not distributed?

2 COMMISSIONER STEWART: That is right.

3 MR. GOODMAN: Yes, certainly.

4 MR. STEWART: Now, in the case of a
5 corporation, the problem with which we are concerned, or
6 with which you are dealing this morning basically arises
7 from the fact that the corporation is taxed on its
8 income, but the individual, who puts capital into the
9 enterprise, is not taxed on the return on that capital
10 until the return is actually received in the form of a
11 dividend.

12 MR. GOODMAN: That is true, unless we regard the
13 corporation tax as being paid on behalf of the shareholders
14 and there is a very difficult question of economics and
15 taxing policy.

16 MR. STEWART: Yes, I quite agree. We
17 have already in hearings of this Commission had a good
18 deal of discussion on that particular question. That is,
19 whether the corporate tax is in fact paid by the share-
20 holder or by the consumer of the company's products or by
21 the labour which is employed by the corporation, or part
22 by each of those three. Have you, by the way, been able
23 to solve that particular problem?

24 MR. GOODMAN: Certainly not, Mr. Stewart.

25 MR. STEWART: Well now, in any case it
26 is reasonably clear that the corporation is here to stay
27 and what this Commission is concerned with is whether the
28 present basic system of taxation of corporate income,
29 which involves the double taxation of which I spoke, should
30 continue or whether we should adopt or recommend some other



1 system.

2 Now, a number of very interesting questions
3 arise here. The first one is whether corporations should
4 be taxed at all, and if I might just develop that a little
5 bit before I ask you to comment. Some people, I think,
6 would say that the tax which is now imposed on corporate
7 income is essentially a tax on shareholders and we have
8 had it put to this Commission that corporations should
9 in effect, be compelled to distribute all their income
10 to their shareholders each year, the shareholders then
11 paying tax at the individual rates on all the corporate
12 income, and each shareholder deciding annually, for him-
13 self, whether he will re-invest what is left after he
14 has paid his tax on his dividend, and if he does decide to
15 re-invest it in full or in part, whether he will put it
16 back into the company from which the dividend came, or put
17 it in some other company. That is one point of view.

18 Another point of view is that tax should be
19 imposed on the corporation because the income is basically
20 earned by the corporation and that when, at a later stage,
21 the corporation proceeds to distribute some part of its
22 earnings by way of dividend, this is simply a distribution
23 of income which has already been earned.

24 It has also been suggested that it is really not
25 politically feasible to disregard the corporation in our
26 system of income taxation, and it has also been pointed
27 out that there is something to be said for permitting
28 corporations to accumulate at least part of their earnings.
29 Of course, if you do permit corporations to accumulate,
30 to some extent, then you are in this position: If you wish



1 to tax the shareholders on the corporate income, if you
2 have any kind of a complicated share structure, then the
3 holders of one class of shares will be taxable on a
4 particular proportion of the corporate income, but they
5 may receive an entirely different proportion of what is
6 distributed. Let me give you a simple example of that
7 kind of thing. Let us suppose that a particular company
8 has a class of preferred shares outstanding and a class
9 of common shares and that if the income for a particular
10 year were all distributed, the preferred shareholders
11 would receive, say, 25% of the total distributed.

12 Now, if the corporation distributes only half
13 its earnings, then the preferred shareholders will,
14 presumably, still receive 25% of what is available for
15 distribution. That will become half of what is actually
16 distributed. The common shareholders will also receive
17 half of what is distributed. That will again still be
18 25 % of the earnings.

19 Now, if the common shareholders are going to be
20 taxed on 75% of the earnings, and receive only 25%, some
21 of them are going to be quite unhappy.

22 MR. GOODMAN: I think I would be too, Mr.
23 Stewart.

24 MR. STEWART: This is apart altogether
25 from the fact that in the case of a large number of our
26 corporations whose shares are listed on Stock Exchanges,
27 the number of shareholders will be considerable. There
28 will be fluctuations during the year in the list of share-
29 holders so that I would expect there would be practical
30 difficulties in determining who was subject to tax on the



1 corporate income.

2 MR. GOODMAN: I would agree entirely, Mr.
3 Stewart, if I may interrupt you at this point, that any
4 system that deems the whole of the profits of a corporation
5 to be distributed annually would be wholly impracticable
6 for the average business corporation. In Australia, I
7 believe, this was in effect for a number of years from
8 private companies and it was eventually abandoned in favour
9 of a system of penalty tax upon accumulations of surplus.

10 I think without pressing the point any further,
11 I would agree that any system of that nature would be
12 quite inconceivable. We must accept the corporation as a
13 taxable entity. Whether or not tax should be levied on
14 that is another question.

15 MR. STEWART: Well now, if we assume
16 that corporations are taxable entities, you say that it
17 is another question whether or not tax should be levied.
18 I am not sure I follow that.

19 MR. GOODMAN: Yes. I would say this: That
20 we must recognize that it is impossible, administratively
21 and ethically, for that matter, in my opinion, having
22 regard to the position of minority shareholders, to tax
23 shareholders of business companies on their share of the
24 profits, whether these are distributed.

25 That being the case, we have a choice, I think,
26 either of exempting the corporation from tax on the
27 grounds that tax should not be levied on it at all, or of
28 treating the corporation tax as being, in effect, a pre-
29 payment of the tax which the shareholder will ultimately
30 pay. If the corporation tax is primarily borne by



1 shareholders, there is a big "if" there, of course, then I
2 think it necessarily follows that some accommodation should
3 be made to avoid double taxation. I say "some accommoda-
4 tion" because it does not necessarily follow that it
5 could be eliminated. Under the English system, as you know,
6 for income tax purposes, dividends from British companies
7 are not subject to further taxes in the hands of the
8 shareholder. The company is deemed, in effect, to have
9 paid the tax on behalf of the shareholders. That is not
10 a strict legal position, but that is the effect of it.
11 That is not true for super tax purposes.

12 Under our system, to a certain extent, through
13 our dividend tax credit, we give recognition to the fact
14 that income that comes through a corporation has already
15 borne a certain amount of tax. Perhaps based on that
16 initial premise that corporation tax is borne by the
17 shareholder, a most satisfactory solution would be to
18 extend, to some extent, the provisions relating to
19 dividend tax credit. Obviously they do not provide full
20 relief in respect of income that has borne tax at corporate
21 rates of 52%. It provides almost complete relief for
22 income that has borne tax at 23% because the 20% dividend
23 tax credit reduces the effective rate of personal tax by
24 20%.

25 MR. STEWART: Well now, if we assume,
26 for the moment, corporations are going to be taxed on
27 their income, do you consider that this tax should be at a
28 flat rate or that the principle of progressive rates should
29 be extended to corporate income?

30 MR. GOODMAN: To as great an extent as possible,



1 Mr. Stewart, I would prefer to see it done on flat rates,
2 because I believe that, as I said earlier, the argument
3 in favour of progressive income does fall flat as soon as
4 they attempt to deal with the corporation. Those
5 arguments are not receiving a particularly favourable
6 reception from a number of critics even in relation to
7 individuals at the present time. I think I would prefer
8 to refrain from commenting on that and say that I believe
9 that the progressive income tax is part and parcel of our
10 tax structure, is part and parcel of our mores, and our
11 attitudes towards paying the burdens of Government.

12 MR. STEWART: Have you any idea as to why it
13 was that a flat rate was established for corporate income
14 tax in the first instance as opposed to progressive rates?

15 MR. GOODMAN: I think it would be speculation on
16 my part. Mr. Perry and scholars who have investigated
17 the history of this will be far better qualified than I
18 to answer that.

19 MR. STEWART: Well now, if we assume that there
20 should be some tax on corporate income, another question
21 of principle with which this Commission, I think, will be
22 concerned is whether there should also be taxes on divi-
23 dends; particularly if the effective rate of corporate
24 income tax is going to remain at anything like its present
25 level.

26 I put this to you: That the present corporate
27 rate far exceeds the effective rate on which the average
28 shareholder pays taxes. Now, if the shareholder chooses
29 to put his capital to work in a corporation, as opposed to
30 an unincorporated enterprise, is there any reason why the



1 overall amount of tax which becomes payable should be
2 greater?

3 MR. GOODMAN: I believe that a somewhat greater
4 tax might be justified on the grounds that payment of the
5 individual tax is postponed until the shareholder wishes
6 to receive his dividend income. However, that could not
7 possibly justify the present situation, in my opinion,
8 if our corporate taxes are in the neighbourhood of 50%.
9 It is true that if we regard the corporation tax as a
10 prepayment of personal income tax by the shareholder, for
11 which he will ultimately be given full credit, a very
12 considerable number of taxpayers would get refunds, but
13 there are a considerable number of taxpayers who would
14 still have additional taxes to pay, even if they were
15 given full credit for the tax paid by the corporation, and
16 I believe that this is not unreasonable. When one bears
17 in mind the fact that most dividend income is received by
18 very few people in our country, who after all receive very
19 substantial dividend income as a result, I see nothing
20 unreasonable in a proposal that does not exempt them from
21 taxation on dividends received from the company in which
22 they are interested, but gives them an appropriate credit
23 for the tax paid by the corporation. We have gone part of
24 the distance on this, and I think it may be extremely
25 expensive to go much further. Nevertheless, I think this
26 would be a desirable long-term provision.

27 THE CHAIRMAN: Mr. Stewart, if I may interrupt and
28 inquire whether Mr. Goodman does not consider that the
29 present treatment of dividends received by shareholders is
30 appropriate. He has suggested it might be appropriate.



1 It is obviously some kind of compromise. Whether it is
2 designed to match the amount of income tax which is
3 thought to be borne by the shareholder, I don't know, but
4 somewhere between full credit for corporation tax and no
5 credit for corporation tax is a compromise, do you
6 think?

7 MR. GOODMAN: I think it goes a considerable
8 distance to meet the complaints of double taxation. It
9 goes much further than the United States has gone and it
10 is interesting that President Kennedy is proposing to
11 repeal even that modest dividend tax credit.

12 I think a dividend tax credit is a desirable
13 step. I would like to see it extended. Its revenue cost
14 might not be great, but I would not wish to see complete
15 exemption from taxes on dividends received from Canadian
16 companies by individuals.

17 MR. STEWART: Mr. Goodman, looking at this purely
18 from the point of view of equity, and the shareholder,
19 would it be reasonable that the rate of dividend tax
20 credit be increased to the top corporate rate?

21 MR. GOODMAN: It might be except that there are
22 companies which do not pay the top corporate rate which
23 pay dividends.

24 MR. STEWART: Then would it be reasonable to
25 provide that the tax credits for a particular company would
26 be at the effective rate on which the company had paid
27 taxes?

28 MR. GOODMAN: Yes, I think that I would like some-
29 thing of this sort as an ultimate objective. In this
30 particular regard there is a technical problem of which



1 you are aware, Mr. Stewart. Some years ago Mr. Milton
2 Moore published an article which seems to have fallen on
3 deaf ears as far as the administration is concerned,
4 dealing with the calculation of the dividend tax credit.
5 He pointed out that in its present form it works very
6 peculiarly, because it does not require grossing up of
7 the dividend.

8 The method which is used in many jurisdictions,
9 including the British, is if \$100.00 of corporate income
10 were regarded as having already borne \$52.00 of corporate
11 tax, then when \$52.00 is received by a shareholder by way
12 of dividend, he would be regarded as having notionally
13 received \$100.00 dividend on which \$52.00 tax had been
14 paid, leaving a net of \$48.00.

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



/ET/dpw 1

I am sorry, my example was incorrect. That

2 would eliminate a minor technical problem there because it
3 just does not seem to work out rationally if you relate
4 credit only to the actual dividend received when grossing
5 up.

6 MR. STEWART: I think the suggestion I made a
7 moment ago about having a formula relating to effective
8 rate on which the dividend-paying company had paid tax,
9 it would cause a good deal of difficulty because so long
10 as we have the dual rate of corporate tax, the effective
11 rate payable by a corporation will vary from year to year,
12 or it may vary from year to year, and it might be extremely
13 difficult to determine what rate to apply to the dividends
14 which were being disbursed in any particular year.

15 MR. GOODMAN: This is very true, and there is
16 even a more extreme example: there is the income earned by
17 a corporation which may have been wholly exempt. As an
18 example, income of a mining company during the first three
19 years of operation.

20 THE CHAIRMAN: I would like to break for ten
21 minutes when you think it is convenient.

22 MR. STEWART: I would like to ask one more ques-
23 tion, Mr. Chairman. In view of this administrative
24 problem, would it be reasonable, assuming that there
25 should be a tax on dividends, and assuming that we retain
26 a flat corporate rate in tax, to provide that dividend
27 income should also be taxed at a flat rate. This meaning,
28 as I see it, that there would be an effective ceiling on
29 the tax payable directly or indirectly by an investor in
30 shares.



1 MR. GOODMAN: I would be wholly opposed to that,
2 Mr. Stewart. It appears to me that the result would get us
3 back into the same sort of difficulty of which you spoke
4 at the beginning of your comments. That is, it would not
5 attempt to achieve equity between the man who operates an
6 unincorporated business and the man who operates through
7 an incorporated company, but the same income received in
8 an unincorporated manner might be taxed at very substantial
9 rates in excess of the flat rates applicable to income
10 earned through a corporation and distributed by way of divi-
11 dends.

12 If we are going to have a system of taxation at
13 progressive rates, then I would think I would be very much
14 opposed to having dividend income taxed at flat rates.

15 MR. STEWART: Well, I take it that in many cases
16 the people you are concerned about could incorporate, if
17 they felt by incorporating effective tax would be reduced.

18 MR. GOODMAN: This is true for some and not for
19 others, as you well know, Mr. Stewart. It is not true for
20 yourself. I think with all due respect it is not an answer
21 to the problem to say that our taxing system should force
22 people into carrying on business in a manner which is
23 foreign to them. I think we should take business relation-
24 ships as determined and attempt to adjust our taxing system
25 in order to deal with these as equitably as possible.

26 MR. STEWART: Thank you.

27

28 --- Short Recess

29

30 THE CHAIRMAN: We have slipped over the ten



1 minutes. Mr. Secretary, are we all ready?

2 THE SECRETARY: All ready.

3 THE CHAIRMAN: Mr. Stewart, would you proceed?

4 MR. STEWART: Now, Mr. Goodman, you have indi-
5 cated that you will not favour a flat rate of tax on divi-
6 dends. Would it follow from that you would not be in
7 favour of permitting accumulated surpluses to be freed
8 from tax, freed from further tax with the payment of taxes
9 on flat rates such as 15%?

10 MR. GOODMAN: That is quite correct, and I have
11 expressed that view in the third part of my submissions to
12 the Commission.

13 MR. STEWART: I was not quite clear during your
14 early remarks on this particular subject whether you your-
15 self would favour some provision which would permit the
16 administration to require distribution of accumulated
17 earnings.

18 MR. GOODMAN: Well, to favour, I think, would be
19 rather a strong word, Mr. Stewart. I think I would be
20 inclined to accept it as one of the inevitable provisions
21 required for the administration of an appropriate taxing
22 statute. No one likes to see enacted a provision quite as
23 arbitrary as this is likely to be in practice, and no
24 doubt it was felt there were sound reasons for its aboli-
25 tion in 1950.

26 However, I do not think our past experience since
27 that time has encouraged the view that it was unnecessary.

28 MR. STEWART: I was interested that you said, if
29 I got your words correctly, that many or most other countries
30 did have provisions of that nature. My recollection would



1 have been that to the extent that there are such provisions,
2 they relate primarily, if not entirely, to closely held
3 corporations. Would you comment on that?

4 MR. GOODMAN: Yes. I referred not to countries
5 generally, but to English-speaking countries, which I have
6 investigated. Australia legislation certainly is referable
7 to private companies only which are defined, I believe, as
8 controlled by seven or fewer persons, or something of that
9 sort. Surtax directions in England are imposed on compa-
10 nies controlled by five or fewer persons.

11 In the United States this is not the case.
12 Improper accumulations of surplus may be determined, and
13 tax may be levied even for a public company whose shares
14 are widely dispersed. I do not think there is any general
15 rule.

16 MR. STEWART: As far as the United States is
17 concerned, can you say whether or not the provision is in
18 practice invoked?

19 MR. GOODMAN: Yes. There are a very considerable
20 number of cases.

21 MR. STEWART: But if I look at your submission I
22 think you indicate that this applies if the company is
23 formed or availed of for the purpose of avoiding income
24 tax on its shareholders by, in effect, undue accumulation.

25 MR. GOODMAN: That is right.

26 MR. STEWART: In your introductory remarks you
27 refer to the fact we have no capital gains tax in this
28 country. You treated this as one of the three fundamental
29 principles which must be kept in mind when we consider
30 taxation of corporate income and the problem of corporate



1 surpluses.

2 Would you personally advocate the imposition of a
3 capital gains tax as far as equity shares are concerned?

4 MR. GOODMAN: I would certainly not favour the
5 imposition of a capital gains tax which form a separate
6 tax on a distinct type of gain. I think the experience of
7 the United States is sufficient to indicate the pressure
8 that builds up for favourable treatment for various vested
9 interest groups in effect converting what would be ordinary
10 income under our law into taxable capital gains under U.S.
11 law, and for a person who is in a sufficiently high tax
12 bracket, the chase of the capital gain is a major American
13 occupation, as you are well aware, Mr. Stewart.

14 Unless capital gains were taxed on the same basis
15 as ordinary income with a full right of averaging such as
16 we have spoken of before, I think I would be wholly opposed
17 to capital gains tax, but in the event that they were taxed
18 at ordinary rates with a right of averaging, I could see
19 that there might be some justification for it, and I think
20 I would rather express myself just that way.

21 It is a matter which obviously goes far beyond
22 the question of tax law and tax practice. It is a difficult
23 question of economics and fiscal policy concerning which I
24 do not feel qualified to speak.

25 MR. STEWART: In your introductory remarks, again,
26 you refer to what we might call a classic case of bail-out
27 or dividend stripping which led to the enactment of Section
28 28, sub-section 2, and you refer to the fact that various
29 tax avoidance schemes have been developed in order to get
30 around the effect of that statutory provision.



1 I think you also suggested that these schemes
2 have been used to a considerable extent. Would that be
3 your impression?

4 MR. GOODMAN: To an increasing extent. I have
5 no idea how much revenue has been lost, but certainly I
6 would say that they are being used to an increasing extent,
7 and if the statute remains unchanged, I think they will be
8 used in future to a much greater extent.

29 MR. STEWART: Now, I am going to come in a
10 minute to your proposed solution or palliative to this
11 problem, but let me ask you in the first instance about a
12 couple of other possibilities. It has been suggested that
13 one way around this problem would be to free designated
14 surplus at the end of a period of three to five years or
15 some such time. Would you think that would be a reasonable
16 thing to do?

17 MR. GOODMAN: No, sir.

18 MR. STEWART: For what reason?

19 MR. GOODMAN: It will merely delay procedures
20 which now can be done almost overnight so that the patient
21 tax avoider will be able to take the same advantage of the
22 present law that he now takes.

23 MR. STEWART: Another possibility which has been
24 suggested is that if dividends are paid out of designated
25 surplus, they should be taxable in the hands of the reci-
26 pient at less than the ordinary corporate rate. What would
27 your reaction be to that?

28 MR. GOODMAN: Well, I think my reaction would be
29 this: if a man has to walk with a crutch, special relief
30 should be given to him, but I would like to see the



1 designated surplus provision eliminated by some more
2 general principle of application, and if that were elimin-
3 ated, it would not seem unfair to me to tax dividends
4 received by individuals on the same basis as heretofore.

5 MR. STEWART: Then, your proposal, I take it,
6 is there be a general 25% tax on dividends paid by one
7 domestic corporation to another, the recipient corporation
8 being able to avoid the tax if the dividend is passed on
9 to its own shareholders?

10 MR. GOODMAN: That is right. Exactly, sir. It
11 does not necessarily follow, I may point out, as you are
12 certainly aware, that the same monies which are received
13 by way of dividend are distributed by way of dividend by
14 the recipient company.

15 A recipient company may have income from busi-
16 ness operations, for example, of, say, \$50,000 after tax,
17 and it may receive corporate dividends of, say, \$30,000,
18 but as long as it declares dividends of \$30,000 from what-
19 ever source derived, it would be completely exonerated
20 from payment of tax on inter-corporate dividends.

21 MR. STEWART: Let me make sure I understand this.
22 Under your proposal, if we have your classic case of a
23 bail-out, and if the purchaser of shares of a company wants
24 to use the company's own funds to help pay for the price of
25 its stock, this could, in effect, be done on payment of a
26 tax penalty of 25% of the undistributed income of the
27 company whose shares are acquired?

28 MR. GOODMAN: That is right, sir. That is a flat
29 rate of tax, and it contravenes to a certain extent the
30 views which I previously expressed concerning the



1 desirability of uniform progressive rate structure, but I
2 see no satisfactory alternative to it.

3 I have admitted in my submission that this would
4 not completely resolve the problem because for persons
5 whose income tax even after dividend tax credit is in
6 excess, say, of 25%, 25% tax on inter-corporate dividends
7 received or net inter-corporate dividends. perhaps we
8 might say would still give him a considerable advantage.

9 Nevertheless, at the present time the Government
10 of Canada is collecting nothing here, and I think it would
11 be preferable to attempt to deal with these on a general
12 basis. I may say that this is the method to the best of
13 my knowledge which is used by a number of countries. I
14 certainly cannot consider myself any sort of an expert in
15 the laws of these other jurisdictions, but there is an
16 extremely interesting discussion of these problems in the
17 report of the 1962 Canadian Tax Conference. You will
18 remember, Mr. Stewart, the discussion on undistributed
19 income and some foreign approaches to it. R.A. Lachance,
20 chartered accountant, discussed the Japanese system, and
21 he says that inter-corporate dividends are fully exempt to
22 the extent of dividends paid by the recipient; otherwise
23 they are only 75% exempt. Then he discussed the Swedish
24 approach, and that seems to be substantially the same.

25 In the same report, Mr. James A. Bradshaw
26 discussed the position of West Germany and France, and as
27 I understand his very detailed remarks, something akin to
28 this is in operation in both of those countries.

29 MR. STEWART: Let me ask you this about your
30 proposal: let us suppose we have a well-established and



1 large concern which has been paying dividends to its share-
2 holders for a considerable period. Let us suppose, for
3 example, that it had paid, by way of dividends, for some
4 years, a total of two million dollars per annum.

5 Would the effect of your scheme be that that
6 company should acquire shares of another company, do a
7 dividend strip to the extent of two million dollars, and
8 be free from any further tax as long as it continued to
9 pay two million dollars a year to its shareholders? If
10 the answer to that question is in the affirmative, I put
11 it to you that your system confers an advantage on that
12 type of large well-established company as opposed to a
13 smaller company or as opposed to a new company which is
14 just commencing operations.

15
16
17
18 -

19
20
21
22 -

23
24
25
26 -

27
28
29
30



F/PB/ss

1 MR. GOODMAN: Your comment is a penetrating one,
2 Mr. Stewart. Obviously a proposal such as I suggest is
3 intended to confer benefit upon the company which distri-
4 butes dividends. The whole purpose, the whole tenor of
5 my remarks had been directed toward encouraging such a
6 company to make such distribution by way of dividends.
7 If as a result this company is able to receive inter-
8 corporate dividends of a substantial sum because it has
9 in the past, and it is currently declaring dividends,
10 I think there is no objection at all. The Government of
11 Canada is not losing as a result of this. The loss occurs
12 primarily in the case of those companies which do not
13 declare dividends in favour of individual shareholders,
14 but which nevertheless receive inter-corporate dividends
15 themselves.

16 MR. STEWART: Well now, I point out that the
17 amount of dividends declared to individual shareholders is
18 not increased under the example that I gave, the
19 \$2,000,000.00 continues to be distributed, but the large
20 corporation with an established dividend policy is able to
21 acquire other companies from time to time and engage in
22 what might be termed dividend stripping.

23 MR. GOODMAN: Well, perhaps, it is a reward for
24 good behavior which they receive, Mr. Stewart. At the
25 present time they are able to do it by a number of different
26 ways. Designated surplus provisions are not blocking it,
27 amalgamating subsidiaries taking over the shares of
28 subsidiary companies with a large surplus, amalgamating
29 in horizontal amalgamation with another company, also a
30 subsidiary of the same parent. The designated surplus can



1 be unfrozen. There are at least half a dozen methods which
2 are presently available. I don't see, with respect, why
3 this is necessarily a criticism of it. It has prepared
4 the way by a policy of regular declaration of dividends.

5 MR. STEWART: Well, Mr. Goodman, I do not want to
6 labour the point. I just wanted to clarify it. I am
7 inclined to think personally that the present tax avoidance
8 schemes which people talk about, at least, have the merit
9 that they are available to everyone whereas the point I
10 have just made may concern the Commission because the
11 large and the well-established and the well-to-do may
12 appear to have an advantage which was not available to
13 others.

14 Let me go on from there and ask you this: If
15 there is an inter-corporate dividend received in order to
16 avoid the 25% tax which you suggest means an equal amount
17 be distributed in the actual year of receipt or would the
18 recipient company have a credit which it could use for
19 a period?

20 MR. GOODMAN: I have said this in my submission,
21 Mr. Stewart, on page 10, second paragraph, fourth line:
22 "As a matter of equity, some provisions would be required
23 in order to allow a company to carry-forward or back any
24 excess of dividends paid over dividends received; the loss
25 carry-over provisions of Section 27(1)(a) might well serve
26 as a model for suitable legislation in this area.

27 MR. STEWART: That is the converse case to that
28 I mentioned. Let us suppose that Company A pays Company B
29 in 1964 a dividend of \$100,000.00. In 1964 Company B
30 chooses not to pay any dividend to its shareholders and



1 therefore becomes subject to your 25% tax. If in
2 1965 it does decide to pay a dividend of \$100,000.00,
3 does it then become entitled to any refund of the tax?

4 MR. GOODMAN: It seems to me it would be possible
5 to institute something of that nature. The purpose of the
6 legislation which I would propose would be to encourage
7 distribution and not necessarily current distribution,
8 but the distributions within a reasonable time of receipt.

9 MR. STEWART : Well then, in one sense these
10 dividends which come into a particular company subject to
11 your special tax of 25% become, I would hate to call them
12 designated dividends, but they become some special type
13 of asset in the recipient company, the ultimate distribu-
14 tion of them would lead to tax relief.

15 MR. GOODMAN: May lead to tax relief providing
16 it were done sufficiently promptly. I think I would be
17 in accordance with the general principle of exempting
18 inter-corporate dividends provided that they flow through
19 the company into the hands of individual shareholders.

20 MR. STEWART: How would you deal, Mr. Goodman,
21 with the shareholders which are corporations but which at
22 the same time are tax exempt, such as charities, and
23 institutions? If they receive dividends from other corpora-
24 tions which they don't pass on because, in the normal
25 course of events they wouldn't pass them on as such and in
26 the case of charities they wouldn't have shareholders to
27 pass them on to, would you impose a 25% tax on them?

28 MR. GOODMAN: I think the question of taxation of
29 charities raises a difficult question of fiscal policy.
30 I think it is rather beyond my knowledge in this regard,



1 and I prefer not to make a comment on it.

2 MR. STEWART: If I might switch to the case of
3 non-residents, we have been told about 60% of dividends
4 paid by Canadian companies at the present time do go to
5 non-residents so that this is a significant class of share-
6 holder. Would you suggest that the 25% tax apply to
7 distributions to them, and if so, I take it this would
8 contemplate we would have to revise a good many of our
9 tax conventions.

10 MR. GOODMAN: I don't contemplate dividends paid
11 to non-residents would be affected in any way by this tax.
12 I am referring to dividends received by one taxable Canadian
13 corporation to another.

14 MR. STEWART: Then, in the case of what we now
15 call personal corporations, and I say what we now call
16 personal corporations, because this designation may
17 disappear if your proposals are adopted, I take it that it
18 may be quite possible that the controlling shareholder or
19 shareholders of such corporations might be quite prepared
20 to have dividends come in from other Canadian companies
21 and bear the 25% tax, particularly if ...

22 MR. GOODMAN: If their own personal rates are very
23 high.

24 MR. STEWART: If their own rates are high, and
25 particularly if failure to distribute immediately leaves
26 them with some kind of claim for tax recovery in the event
27 of distribution at a later stage.

28 MR. GOODMAN: Somewhat later stage --- I think
29 the answer to that --- I am sorry, did I anticipate you?

30 MR. STEWART: What I was going to put to you was



1 this, if we assume a Canadian corporation at the moment
2 with 50% and a tax of 25% on distributions to the type of
3 corporation which is now called a personal corporation,
4 in fact, you would be setting an overall rate of tax of
5 62½% on income?

6 MR. GOODMAN: No, sir. It seems to me if it is
7 considered desirable to have general legislation dealing
8 with improper accumulation of corporate surplus beyond the
9 needs of the business that legislation could have special
10 provisions regarding holding companies which, after all,
11 don't carry on any significant business operation and
12 which, therefore, might be required to distribute substan-
13 tially of their income. This, of course, is the approach
14 which is used primarily in the United States. I would
15 prefer to see the problem resolved in the context of an
16 overall approach to unreasonable accumulations of surplus.
17 The problem is not confined in any sense to the company
18 which carries on any active business at all as you are
19 aware, Mr. Stewart. A company which carries on a flourish-
20 ing manufacturing business may become the vehicle for
21 investment and for receipt of investment income that forms
22 an income for the benefit of the shareholders without
23 any personal tax being imposed upon those shareholders
24 under our present law. If a company which carries on such
25 a business is able to avoid for its shareholders payment
26 of any tax on the investment income, then it seems to me
27 that a holding company should be entitled to do so and
28 by parity of reasoning the company that does carry on
29 business isn't able to avoid personal tax on its shareholders



1 in respect to its accumulation then a holding company
2 should not be entitled to either.

3 MR. STEWART: There seems to me to be a curious
4 attitude, not necessarily on your part, Mr. Goodman, on
5 the part of people generally towards people who choose to
6 invest in what you might call diversified investment
7 companies. In other words, let us suppose Mr. Jones who
8 has inherited \$100,000.00 decides he will become a small
9 entrepreneur and invest the whole of the \$100,000.00 in a
10 particular type of business. He forms a company and he
11 puts his \$100,000.00 into the company one way or the
12 other and he carries on, we hope, with success. He in
13 the ordinary course of events would not be subject to any
14 legislation which required the distribution of accumulated
15 earnings, at least, until he got to the point where he had
16 accumulated funds which weren't being used for the purpose
17 of his manufacturing and commercial business. Now, we
18 have on the other hand, let us say, Mrs. Jones who inherits
19 \$100,000.00. She does not consider that she has the
20 qualifications necessary to permit her to carry on a
21 manufacturing or commercial business, so she decides that
22 she will form a holding company and put her \$100,000.00 in
23 to it and that it will then acquire a diversified invest-
24 ment portfolio. If the investments of this company are
25 successful she will build up an increased amount of money,
26 all of which she presumably will continue to employ
27 actively in the diversified investment portfolio. Now, as
28 a matter of interest why is it on that type of employment
29 of capital she should be subject to different rules from
30 the first type of employment of capital?



MR. GOODMAN: I have attempted to the best of my

1 ability to answer that, Mr. Stewart, by saying that I
2 accept the fact that the corporation is a taxing entity,
3 the business profit earned, so the corporations have to
4 pay tax according to some special rules. I find nothing
5 incongruous about legislation which requires distribution
6 of improper accumulation of surplus in the first example,
7 and which considers any accumulation of surplus is
8 improper in the second example. However, I resent, perhaps
9 that is a rather strong word, I disapprove of the present
10 situation where the second example is a personal corpora-
11 tion and the whole income is deemed to be distributed and
12 taxable annually in the hands of the individual shareholder,
13 but in the first case the amount of money over and above
14 the needs of the business which has been accumulated and
15 which is earning investment income escapes taxation.
16 I find the present situation incongruous and undesirable.

17 MR. STEWART: Well now, let me ask you another
18 question: Do you consider that this proposed tax of yours
19 provides an incentive to the distribution of accumulated
20 earnings? One way, as you know in which some countries
21 attempt to provide or appear to provide such an incentive
22 is by providing for a lower rate of tax on retained
23 earnings -- I beg your pardon, a lower rate of tax on
24 distributed earnings than on retained earnings. If it is
25 a laudable objective to attempt to encourage distribution
26 and prevent undue accumulation would your tax on inter-
27 corporate dividends have that effect or will it be likely
28 to induce holding companies to leave earnings in the hands
29 of their subsidiaries?

30 MR. GOODMAN: Well, I see no particular virtue,



1 Mr. Stewart, in legislation which merely encourages a
2 holding company to leave the earnings to the subsidiary
3 rather than distribute them to the holding company
4 and, perhaps, then on to the shareholders. On the other
5 hand, I see no particular merit as far as Revenue Law is
6 concerned in encouraging the distribution by the
7 subsidiary to the holding company and stopping it there.
8 That is what our present legislation does.

9 MR. STEWART: Yes. Well now, in the concluding
10 paragraph of your submission on this topic you indicate
11 that your proposed tax may not resolve all the difficulties
12 or close all the loopholes which are presently available
13 and then you go on to indicate, I think what you have in
14 mind is that there may be taxpayers whose personal rates
15 of tax are such that a 25% tax on inter-corporate dividends
16 may be more attractive for payment of personal income
17 tax on dividends.

18

19

20

21

22

23

24

25

26

27

28

29

30



G/MR/dpw 1

Now, is that the only difficulty or loophole that

2 you think your proposal will not effectively deal with?

3 MR. GOODMAN: No, sir. Since I have written
4 this, I have had a chance to do some further thinking on
5 it and it appears to me there are a number of others which
6 might have to be dealt with.

7 MR. STEWART: I think it would be helpful to the
8 Commission if you would indicate what they are.

9 MR. GOODMAN: I think I can identify some of them.
10 I am not at all sure I can suggest an answer to them. One
11 of them is concerned with surplus stripping, or dividend
12 stripping by transferring the residence of a Canadian
13 company outside Canada and the techniques by which this is
14 handled are rather complicated. I think I would simply
15 prefer to identify that as an area I don't think can be
16 dealt with under this type of legislation. It might have to
17 be dealt with otherwise, if at all. At the present time
18 it is not dealt with at all.

19 Another I think is the vertical amalgamation of
20 companies and I think my reference, in the last two lines
21 of the paragraph to which you have referred, to Section 105
22 (b) and 105(c) I would, upon reconsideration, delete,
23 because I am simply not sure of it. I think some of the
24 problems involved would be eliminated and others would
25 continue.

26 If, upon the vertical amalgamation of a subsi-
27 diary with its holding company, or with its parent company,
28 the surplus of the subsidiary were deemed to be distributed
29 as an inter-corporate dividend, subject to tax, that might
30 resolve the problem with the vertical amalgamation.



1 Horizontal amalgamation would, of course,
2 present no tax advantage at all.

3 MR. STEWART: So far as this particular is
4 concerned?

5 MR. GOODMAN: So far as this is concerned. The
6 device whereby shares might be sold, either to brokers or
7 to exempt institutions, or to non-residents, all of which
8 are dealt with in Section 105(b) are extremely difficult
9 problems and I do not think I can resolve them, so that
10 upon consideration I think if the proposal which I make
11 assists in dealing with the other sections, as I believe it
12 to do, I think that is the maximum claim I would wish to
13 make for it.

14 MR. STEWART: Thank you very much. Mr. Chairman,
15 that closes my questions on this particular topic.

16 THE CHAIRMAN: Thank you, Mr. Stewart. It would
17 seem to me, Mr. Goodman, your proposal here really provides
18 that on business operations, profits, once converted to
19 dividends, should move immediately to indivi-
20 duals; really are channelled into a conduit and continue in
21 that conduit to individuals, subject to the penalty that if
22 they do not flow through the conduit, they get an additional
23 tax?

24 MR. GOODMAN: Exactly, Mr. Chairman.

25 THE CHAIRMAN: Presumably, in flowing through the
26 conduit, the nature of what those earnings might be would
27 be preserved so that the shareholders would know what comes
28 out at the other end would be the same as what went in. I
29 would imagine it would not be very difficult to achieve
30 that result. I think I understand the proposal, Mr.



1 Stewart.

2 COMMISSIONER WALLS: Mr. Goodman, as I understand
3 it, you gave unqualified opposition to the use of capital
4 gains tax. What about the using of capital gains tax on a
5 quick adventure in trade, such as now in the U.K. whereby
6 if you sell stock within two or three months of having
7 purchased it, you make a capital gain or a piece of property
8 within a year, you make a capital gain?

9 MR. GOODMAN: I would say that is extremely
10 conservative legislation, Mr. Walls, perhaps with both a
11 large and small "c". I think the net effect might very
12 well be, because certain gains would be taxed under that
13 schedule, which would otherwise be subject to ordinary tax
14 under Schedule D, that this is no problem in the United
15 Kingdom because it does not impose a special rate of tax
16 in that regard. Merely treats them as ordinary income.

17 If short-term gains were subject to a capital
18 gains tax on a flat rate, I think it would be undesirable
19 in that it would make a distinction which even the Americans
20 have not chosen to make, between the type of short-term
21 gain that has all the earmarks of income, and ordinary
22 income realized in the process of buying and selling, as
23 a dealer.

24 For example, if I buy stock in January and sell
25 it in May in the United States, in connection with that
26 what I may make is a short-term capital gain taxed as
27 ordinary income. I must hold, for a required period, in
28 order to benefit from the capital gains tax. There might
29 be a good deal to be said for taxing even the capital
30 gains maybe on a long-term transaction at ordinary income



1 rates except for the fact that it tends to be realized in
2 bunch form and, therefore, some sort of averaging device
3 is imperative if it is going to be dealt with.

4 One of the reasons why, as I understand it, the
5 United States originally adopted the flat rate tax was as
6 a sort of averaging device for capital gains.

7 THE CHAIRMAN: Mr. Goodman, I understood you to
8 say that you did not advocate a separate capital gains tax.
9 You believe that it might be necessary to include certain
10 transactions income which we now frequently call
11 capital gains; am I correct?

12 MR. GOODMAN: Yes, it might be necessary. I
13 think I would be the last person to advocate it. I think
14 that is a rather strong word, but looking at the matter
15 from as long a term as possible, as I can from my position
16 as a tax practitioner, I do not see that it would be impos-
17 sible.

18 COMMISSIONER GRANT: Mr. Goodman, following the
19 report of the Ives Commission the income tax was amended
20 so as to permit the distribution of surplus designated or
21 fixed on payment of 15% tax in such a manner that it could
22 get into the hands of the shareholders by way of preferred
23 shares redeemable, and, therefore, not subject to tax
24 once those shares were redeemed in the hands of the share-
25 holders.

26 Now, since that there have been lots of schemes
27 that have been evolved whereby that provision, in itself,
28 can be avoided in that the designated surplus, or the
29 surplus existing up to 1949 can be taken out without pay-
30 ment of the 15% tax and when received by the shareholder



1 is regarded not as income; right?

2 MR. GOODMAN: Yes, sir.

3 COMMISSIONER GRANT: Now, Mr. Stewart has said
4 that this tax avoidance is available to everyone, which,
5 of course, is true, yet it is a very expensive procedure.

6 MR. STEWART: Mr. Chairman, if I might interject
7 I do not suggest that everybody uses it.

8 THE CHAIRMAN: It is available.

9 COMMISSIONER GRANT: Now, do I understand you to
10 say, Mr. Goodman, that you approve in principle a surplus
11 being available to shareholders through distribution with-
12 out payment of tax?

13 MR. GOODMAN: Without payment of personal taxes?

14 COMMISSIONER GRANT: Yes.

15 MR. GOODMAN: No, sir. I suggested in my remarks
16 to Mr. Stewart in answer to his questions, that I believe
17 the dividends received from a Canadian company or from any
18 company should be subject to individual income tax with an
19 appropriate credit on account of corporation tax already
20 paid. This, of course, is on the assumption that the
21 corporation is, in effect, being taxed on behalf of the
22 shareholder which is a somewhat dubious assumption, bearing
23 in mind the criticism.

24 Recognizing that the various bail-out or dividend
25 stripping devices which are available may succeed to such
26 an extent that no personal tax and no corporate tax is
27 paid on the distribution of a corporate surplus, I have
28 suggested that a flat rate of tax on the excess of dividends
29 received by a corporation over dividends paid by it, would
30 alleviate, to a considerable extent, this problem and would



1 actually encourage the flow-through of dividends, of which
2 the Chairman has spoken.

3 COMMISSIONER GRANT: Could we narrow that down
4 to this extent: say your suggestion, that corporate profits
5 be dealt with in this way, was not acceptable entirely.
6 Would you compromise that to the extent of making it
7 applicable to surplus that has been built up so as to put
8 your suggested method into effect rather than Section 105?

9 MR. GOODMAN: I think I would see relatively
10 little advantage in substituting my proposal for Section
11 105 under those circumstances, Mr. Grant.

12 COMMISSIONER GRANT: Now, as a lawyer, why do you
13 think it is possible, or to put it another way, why does it
14 seem to be so impossible for Parliament, on the principle
15 that Parliament is supreme, not to write laws that cannot
16 be circumvented in this respect?

17 MR. GOODMAN: Well, Parliament is very busy on
18 many things, I believe, and the Minister of National
19 Revenue and the Minister of Finance are busy on many things.

20 I feel quite sure that the advisors in the
21 Department of Finance and the Department of National
22 Revenue are well aware of these problems and have been for
23 years. I am sure that the various solutions which have
24 been proposed to your Commission, which I am proposing,
25 perhaps, have been considered by technical officers but
26 they have not been given effect to in legislation. There
27 may be all sorts of administrative reasons why this is so.
28 I suspect that there is not a single reason. It is
29 concerned with the pressure of work. It is concerned with
30 the fact that there are relatively few people involved in



1 planning tax policy in the Department of Finance and these
2 people are very much overworked, according to my understand-
3 ing and the fact there is not a continuing scrutiny by a
4 Parliamentary Committee of taxation legislation. The type
5 of intensive scrutiny which is given legislation by the
6 House Ways and Means Committee, by a similar committee in
7 the United States Senate results, I believe, in taxing
8 legislation which is probably better designed to deal with
9 complicated technical questions than we have in Canada.

10 COMMISSIONER GRANT: Now, on another aspect of
11 dividend taxation, I believe that a short time ago, a few
12 years ago, that Canada gave a trial - I am not so sure -
13 I am not familiar enough with it to say whether it actually
14 became a matter of legislation or it became very close to
15 legislation, whereby dividends would be taxed at the source.

16 I also understand that within a year the United
17 States Congress gave very serious consideration to this and,
18 in fact, almost enacted such legislation but turned it down
19 on the grounds that it would impose entirely too much of a
20 burden on the corporation.

21 MR. GOODMAN: I think this is concerned with tax
22 administration and the elimination of tax evasion, neither
23 of which questions I wish to make any submission on, Mr.
24 Grant.

25 COMMISSIONER PERRY: Mr. Goodman, just one question:
26 you spoke with apparent approval of the provision of the
27 laws of other countries giving administrative authority to
28 force distribution of surplus. I read your final proposal
29 as being philosophically of a different order of creature.
30 Am I reading you properly here? Is it, in fact, true that



1 you would prefer some automatic scheme which would leave
2 the decision to the taxpayer rather than to the administra-
3 tion?

4 MR. GOODMAN: I would prefer an automatic scheme,
5 Mr. Perry. It may be that an automatic scheme is not
6 feasible. Australia has an automatic scheme for private
7 companies. You know immediately that if you accumulate
8 X thousand pounds of surplus, and you do not distribute it,
9 you are going to be subject to Y thousand pounds on the tax.

10 COMMISSIONER PERRY: This, as I recall it, was
11 where the section in the old Income War Tax Act, which was
12 carried over for a year or two into the new Act, broke
13 down in practice, in that it required our administration to
14 make a judgment of the extent of accumulation and the needs
15 of the business and they said "who were we to say what are
16 the needs in the business? We have no knowledge or no
17 basis of judgment here at all."

18 MR. GOODMAN: It is interesting, Mr. Perry, that
19 in a much larger economy, the American economy, it has
20 been found possible to do this. It is not easy, and I am
21 not sure it is desirable but it is interesting. Whether
22 we have an automatic penalty or some sort of administrative
23 device, I think depends upon your attitude towards the role
24 of Government in taxation.

25 COMMISSIONER PERRY: One of the things the
26 Americans have done, of which I approve, is that they have
27 developed a philosophy of "business purpose" which is indeed
28 an accepted concept in their tax law. We have not done
29 this. We have no guide lines at all. I do not want to
30 read anything into your proposal, any more into it than I



1 have already read; that is, you prefer an automatic scheme
2 rather than an administered one relying fairly heavily on
3 administrative discretion.

4 COMMISSIONER BEAUVAIS: I have one question, Mr.
5 Goodman. Would you insist on leaving in the Act the obli-
6 gation to capitalize surplus by way of preferred shares or
7 to declare a non-taxable dividend?

8 MR. GOODMAN: No, Mr. Beauvais. I have referred
9 on page 11 of my submission, pages 11, 12 and 13, to the
10 present Section 105. I consider that the legislation is
11 undesirable except for very special cases, that it creates
12 a situation where income may be distributed to a share-
13 holder at flat rates of taxes, whereas the earnings of
14 that income by other means would be subject to tax at
15 progressive rates.

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



MT/dpw1 MR. GOODMAN: If we are going to have a progres-
2 sive rate structure for individuals, then I would like to
3 see Section 105 eliminated.

4 THE CHAIRMAN: We are moving on in this question
5 to the next section?

6 MR. GOODMAN: Yes, sir.

7 COMMISSIONER BEAUVAIS: If \$100 of earnings is
8 received by a corporation, and let us say the shareholder
9 is in the 50% bracket, surely he will receive less of that
10 \$100 than if he received income directly, because at the
11 start you have 52%, leaving just \$48. \$24 is subject to
12 15% tax and on the other \$24 the tax would be 50%. At the
13 end, if he is in the 50% bracket, what would be left would
14 be around \$35 to \$37, whereby if he received this interest
15 on \$100 directly, the net would be \$50 in his pocket.

16 MR. GOODMAN: With respect, Mr. Beauvais, I do
17 not think that is a fair comparison. The individual who is
18 in a 50% tax bracket and who earned \$100 of income from his
19 business, unincorporated business, would have a net after
20 tax of \$50.

21 If he incorporated a company and the company
22 earned \$100, the company would pay tax, let us say, 52%,
23 leaving \$48. I see no objection to the taxation of that
24 \$48 if, as, and when distributed on a grossing-up basis.
25 That is on the basis that it is, in effect, a receipt of
26 \$100 on which \$52 tax has already been paid, and since
27 this gentleman is in the 50% tax bracket, I think in all
28 fairness he should get \$2. If he were in the 60% bracket,
29 I see no reason why he should not pay an additional 8%.

30 COMMISSIONER BEAUVAIS: Under the present



1 legislation my example is correct?

2 MR. GOODMAN: Under the present legislation,
3 having received a dividend of \$48 as a dividend, he would
4 pay tax on it at 30%. 50% less his dividend tax credit of
5 20%. He would pay \$16 tax on that basis, and the total tax
6 payable on that income, I believe, is \$68.

7 COMMISSIONER BEAUVAIS: I was talking about
8 Section 105.

9 MR. GOODMAN: Under 105 he would pay a tax,
10 assuming this \$48 can be distributed wholly through that
11 vehicle, he would pay a tax of \$7 - \$7.20 - leaving
12 approximately \$40 net.

13 COMMISSIONER BEAUVAIS: Instead of \$50?

14 MR. GOODMAN: Instead of \$50; that is quite so.
15 Nevertheless, I think the appropriate comparison would be
16 between receiving the dividend of \$100 from the company on
17 which he would pay tax of 30% and receiving \$100 from the
18 company on which the company has prepaid tax of \$15,
19 leaving a net of \$85 to him, so that his net rate of tax is
20 only 15%, and I do not see any reason for the disparity
21 between the 30 and 15 per cent.

22 COMMISSIONER BEAUVAIS: Nevertheless, under the
23 present legislation the man receiving an income of \$100
24 direct will keep more in his pocket than his company.

25 MR. GOODMAN: If the company has paid tax of 52%,
26 this is very true, sir, undoubtedly. It is one of the
27 faults of our present system.

28 THE CHAIRMAN: Shall we move on, Mr. Goodman?

29 MR. GOODMAN: Yes. I believe I have made all the
30 comments I wish to make concerning capitalization of



1 undistributed income, and I would leave that to Mr.
2 Stewart.

3 MR. STEWART: I have only one or two questions
4 on this particular subject. Would it be a fact in your
5 opinion that the type of corporation which is likely to
6 make use of Section 105 is a pretty limited type? I am
7 thinking of this, so that you will understand what I am
8 getting at; large companies with a list of shares and a
9 large number of shareholders, I should think in the ordi-
10 nary case would not need to take advantage of such a provi-
11 sion because they are shareholders, and if they wish to
12 realize on their shares, have a market available.

13 MR. GOODMAN: That is true.

14 MR. STEWART: If you think of companies which
15 are perhaps not in the largest class but which have to the
16 knowledge of management shareholders, including institu-
17 tions, charities and other corporations, pension funds and
18 so on, there may be a reluctance on the part of management
19 to proceed under Section 105 because there is no advantage
20 to it as far as those shareholders are concerned; in fact,
21 there is a disadvantage because corporate funds are being
22 used to no purpose.

23 MR. GOODMAN: That is right, and it would also
24 apply to dividends paid to non-residents.

25 MR. STEWART: So that while I believe there have
26 been instances reported in the press since 1950 where this
27 legislation has been abused by companies, I would expect
28 that by and large it would be used only by closely held
29 corporations.

30 MR. GOODMAN: I can recall one that I would not



1 class as closely held that was reported in the public press.
2 As I recall, the Confederation Life Association made use
3 of it for the purpose of paying up shares which had not
4 been fully paid.

5 MR. STEWART: Oh, yes, and there have been
6 other cases, but I suggest to you it is basically legisla-
7 tion that helps the closely held corporations.

8 MR. GOODMAN: It is certainly intended to do so.

9 MR. STEWART: And your objection to it stems from
10 your feeling or view that shareholders of companies by and
11 large should not be enabled to avoid tax on dividends at
12 the full personal rates subject to any applicable dividend
13 tax credit?

14 MR. GOODMAN: That is right, sir.

15 MR. STEWART: But you do in your submission here
16 suggest that in some cases this type of thing still be
17 permitted. This would presumably apply also basically to
18 closely held corporations.

19 Would you limit the class then still further by
20 saying this should be permitted only if the amount freed
21 for distribution was going to be used to pay death duties?

22 MR. GOODMAN: Yes, sir. I believe that the major
23 problem of the Ives Commission investigation arose from the
24 joint impact of income taxes and death duties.

25 MR. STEWART: I think that is quite correct, but
26 I think back at that time when that Commission was sitting
27 there had been such an increase in tax rates that it might
28 be arguable that people who held shares in closely held
29 companies found themselves unexpectedly and unwittingly in
30 that particular situation. I wonder if there is any



1 particular excuse for getting yourself into such a situa-
2 tion in 1963.

3 MR. GOODMAN: I would say, sir, if there is to
4 be some type of flat rate distribution, I think that it
5 should be narrowly confined, and it seems to me the most
6 obvious type would be a distribution for the purpose of
7 paying death duties.

8 MR. STEWART: No further questions, Mr. Chairman.

9 THE CHAIRMAN: Do any of the Commissioners wish
10 to address any questions on Section C? Shall we move on,
11 Mr. Stewart? Before you address yourself to the questions,
12 could I ask Mr. Goodman if he would like to speak to
13 Section 105?

14 MR. GOODMAN: Well, sir, I propose to speak very
15 briefly on it. The problem arises, of course, from the
16 fact that we have a two-tiered tax rate for corporations in
17 Ontario; 23% for the first \$35,000 of taxable income, and
18 52% on the excess. There is a very strong pressure in the
19 case of private companies to sub-divide the activities of
20 the company in some manner where a number of companies may
21 derive benefit from the lower rate of taxes rather than
22 having the lower rate available only for \$35,000.

23 I have attempted on pages 13 and 14 to list the
24 situations which can be created under the present legisla-
25 tion, notwithstanding that we have provisions in our
26 statute which are intended to prevent the multiplicity of
27 corporations each deriving benefit from the lower tax rate.

28 All of these situations are, in my respectful
29 opinion, possible under the present law, and they are
30 possible under the present law notwithstanding that the



1 law was extensively revised in 1960. I think the legis-
2 lation is unsound. I think it is unworkable, and I should
3 like to explore with the Commission, Mr. Chairman, the
4 possibilities of avoiding the problem to some extent, at
5 least.

6 THE CHAIRMAN: Thank you, Mr. Goodman.

7 MR. STEWART: One solution, Mr. Goodman, of
8 course, would be to eliminate the low rate of tax on the
9 first part of corporate income. I do not recall whether
10 you have expressed yourself on that this morning or not.

11 MR. GOODMAN: I would say that I would prefer to
12 see a flat rate of tax, but if the flat rate of tax had to
13 be near the present level of 52% in Ontario, I think some
14 relief would have to be given.

15 Our small businesses do require some tax relief,
16 in my opinion, and obviously the purpose of our two-tiered
17 structure is to provide some measure of assistance to them
18 by reducing the tax on the first portion of their income.

19 If other means could be found, let us say, to
20 reduce the corporate tax to a level of, say, 40%, it seems
21 to me that with an appropriate dividend tax credit giving
22 credit for the prepayment of tax in the hands of the indi-
23 vidual, that we could safely eliminate the present two-
24 tiered structure. Whether or not this is possible is a
25 very difficult fiscal question. I appreciate that a
26 simple 1% reduction in the maximum rate of corporation tax
27 costs the Government of Canada a great deal of money.

28 MR. STEWART: You are not here this morning, I
29 take it, to express any views as to the relative merits of
30 income tax and consumption taxes?



1 MR. GOODMAN: No, sir.

2 MR. STEWART: Let us suppose this two-tiered
3 system is retained for one reason or another. At the
4 present time the question of association is determined by
5 a control test. I do not think it is necessary for us this
6 morning to discuss what constitutes control at all because
7 that can become very technical and complicated, but other
8 tests for determining association or the equivalent of
9 association have been suggested from time to time. One of
10 them, of course, is the economic activity, by which I mean
11 this: companies should be treated as associated if they
12 have business relations with one another or if they are in
13 the same general line of business.

14 Would you care to comment on that type of test
15 as opposed to a control test?

16 MR. GOODMAN: I note, Mr. Stewart, that the new
17 legislation, Section 40(a) of the Income Tax Act which was
18 enacted recently which provides a production incentive by
19 way of a rate reduction makes use of a test of inter-
20 related activity, and it would seem to me such a test is
21 therefore feasible. Obviously the draughtsman of that
22 legislation thought it was feasible, and Parliament must
23 have thought so when it enacted it.

24 The test is a little bit peculiar in that it
25 requires first that a company be associated and then that
26 it be interrelated in its activity, buying from the other
27 company or selling to the other company, but in respect of
28 these transactions with another company, that might prove
29 an acceptable test.

30 However, I do not think it would resolve the



1 question entirely. It seems to me that there is nothing
2 incongruous in a businessman operating his five stores
3 through five separate companies. There are good business
4 reasons why this might be done in order to limit his liabi-
5 lity in respect of any particular store.

6 MR. STEWART: Well then, what about the other
7 type of test which has been put forward, which is that
8 there should be deemed to be association if it can
9 reasonably be considered that one or more of the companies
10 concerned have been formed for tax reasons rather than bona
11 fide business reasons?

12 MR. GOODMAN: Well, the difficulty with legisla-
13 tion of that sort, of course, Mr. Stewart, is the difficulty
14 to which Mr. Perry referred. You do not have, for the most
15 part, a business purpose rule similar to the Gregory rule
16 in the United States. Under our law, in theory at least,
17 a person is free to arrange his affairs in such a manner
18 as will result in the least tax liability to him. There is
19 an overriding provision in Section 138 which allows
20 Treasury Board, Committee of the Cabinet, to make direc-
21 tions to counteract improper avoidance of taxes, but apart
22 from that we have worked on the basis that if a taxpayer
23 has, to use a common analogy, two bridges available for
24 crossing a stream, he can choose to go on the free bridge
25 rather than the toll bridge.

26 I would prefer that the law be certain. I would
27 prefer to have that law spelled out with exactness rather
28 than expressed in terms such as you proposed.

29 The American legislation is along these lines,
30 it is interesting to note. It is also interesting to note



1 that President Kennedy now proposes to introduce legisla-
2 tion somewhat similar to our associated corporations
3 legislation. If it is passed I feel reasonably sure that
4 they will regret the day. Our own experience has been
5 unfavourable.

6 MR. STEWART: I take it that you do consider
7 that if the present legislation was amended to provide
8 that the low rate of tax would be available only to one
9 of companies carrying on a partnership, this would go a
10 long way to resolving the problem?

11 MR. GOODMAN: It would go as far as I would be
12 prepared to go in resolving the present problem, assuming
13 that we must accept the two-tiered structure of corporate
14 rates.

15 MR. STEWART: Supposing, Mr. Goodman, we simply
16 eliminated the associated corporations provisions altogether
17 and provided that, in effect, any company was entitled to
18 the low rate of tax on the first given amount in its corpo-
19 rate income, would you expect that there would be a consi-
20 derable multiplication of companies beyond what has already
21 occurred?

22 MR. GOODMAN: No, sir. I do not think there would
23 be any significant multiplication beyond what has already
24 occurred. There may be some backwoods areas which have not
25 yet heard it is possible to avoid the effects of Section 39,
26 but they must be of no economic significance.

27

28

29

30



I/PB/ss 1

MR. STEWART: Another question which I realize
is very general and may be difficult to answer, but would
you consider that the existence of these provisions has
led to the formation of a substantial number of corporations
which otherwise would not have been incorporated at
all?

MR. GOODMAN: I have relatively limited experience
in many areas of taxation, but on that I can speak first-
hand and it certainly has done so. It has enormously
increased the work of lawyers, and chartered accountants
in the incorporation and organization of companies.

MR. STEWART: In other words, a lot of businesses
which would ordinarily or prior to this legislation have
been carried on in unincorporated form have because of
this legislation been carried on in incorporated form.

MR. GOODMAN: I would put it this way a lot of
businesses which would be carried on through one company
are carried on through many companies as a result of the
legislation.

MR. STEWART: Quite so. I think there is no
doubt about that. What are your views on the other
question?

MR. GOODMAN: I don't know.

MR. STEWART: No other questions.

THE CHAIRMAN: It might be interesting, Mr. Goodman,
to point out one solution that has been put to us as a
substitute for the two tiered corporate rate is to permit
to corporations the right to have their income taxed to
shareholders in the same manner as though they were, in
fact, partnerships. I don't suppose you have had a chance



1 to consider that proposal. I wish you would let us have
2 your views on it.

3 MR. GOODMAN: This, I believe, Mr. Chairman,
4 would have a very limited application. I can think, for
5 example, of the United States where this permission is
6 given to real estate holding companies. It is quite
7 useful. It might be useful in the odd case beyond that.
8 I cannot believe it has any universal application or even
9 any very general application and it could be extremely
10 onerous on a minority shareholder or upon a shareholder
11 of one class of shares to find imposed a tax on income
12 which he has not received and he might never receive as a
13 result of the actions of the majority.

14 THE CHAIRMAN: Thank you.

15 MR. GOODMAN: Thank you, sir. It might be quite
16 useful, Mr. Chairman, if all the shareholders were in
17 unanimous agreement.

18 THE CHAIRMAN: I am not entirely satisfied that
19 your answer is the last word on the subject. I don't think
20 you have had a chance to really consider it very fully.
21 It seems to me if it was buttressed or restricted in certain
22 respects that it could go some distance to a solution. I
23 don't know.

24 MR. GOODMAN: I would like to reserve further
25 comment.

26 COMMISSIONER GRANT: Mr. Goodman, what do you
27 think might be the effect if the legislation with respect
28 to associated companies was made expressly applicable only
29 to companies incorporated after the associated provision
30 was put into the Act?



1 MR. GOODMAN: I think it would possibly create a
2 certain degree of unfairness as between taxpayers who
3 were fortunate enough to have arranged their affairs in
4 what turned out to be a desirable method and those who
5 later arranged their affairs in the same manner.

6 COMMISSIONER GRANT: Had they done so, there
7 would have been no purpose in them arranging their affairs
8 in order to take advantage of the lower rate.

9 MR. GOODMAN: I am thinking of a situation
10 of which I have personal knowledge where a number of
11 companies were set up long before the associated corpora-
12 tions legislation came into effect, a large number of
13 companies for which there were relatively few shareholders
14 and the same shareholders in each company, the
15 purpose being to limit liability. Should these be
16 entitled to the benefit of the lower rate throughout or
17 should they be lumped together as companies recently
18 incorporated might have to be. I think this is really all
19 I can say on that question, sir.

20 THE CHAIRMAN: We move on now to your Section
21 E.

22 MR. GOODMAN: Yes, sir.

23 THE CHAIRMAN: Which is headed Court Costs and
24 Other Costs of Income Tax Appeals. Do you wish to speak
25 to your Section E?

26 MR. GOODMAN: I don't think there is anything I
27 can add to what already appears there, Mr. Chairman. It
28 seems to me that the fact that the majority of taxpayers
29 find it very hard to understand why the money they pay to
30 a tax advisor should not be a deductible expense and the



1 money they pay to have mitigated tax levied should be a
2 strong factor that consideration be given to present
3 legislation. In addition I have spoken very briefly about
4 a number of relatively minor problems, minor in the overall
5 picture, but I believe that these would represent useful
6 changes in our legislation.

7 THE CHAIRMAN: Mr. Stewart?

8 MR. STEWART: Mr. Chairman, I have read, of
9 course, this part of Mr. Goodman's submission and I have
10 a couple of minor questions. These relate to the first
11 suggestion he makes which is that if the Department appeals
12 from a decision of the Tax Appeal Board, or, I suppose the
13 Exchequer Court in favour of a taxpayer if the amount
14 involved is less than \$5,000.00 the Department should be
15 required to pay the taxpayer's costs of the subsequent
16 litigation. My questions, Mr. Goodman, are these. Do
17 you suggest that this should apply in all cases or that it
18 should be left to the discretion of the Court concerned to
19 rule as to whether the Department can appeal only on these
20 particular terms?

21 MR. GOODMAN: I think it should apply automatically.

22 MR. STEWART: Do you consider that figure of
23 \$5,000.00 is high enough? Your basic point as I understand
24 it is that there may be a question involved which is of
25 great importance to the Department so that the Department
26 may almost be compelled to take the matter up to the
27 Supreme Court of Canada and the amount involved as far as
28 the taxpayer is concerned is relatively small. Should there
29 be any ceiling at all and if there should be a ceiling,
30 should it be as high as \$5,000.00?



1 MR. GOODMAN: Well, when I first proposed this
2 I thought \$5,000.00 might be fairly high, but I think now
3 there could well be a ceiling. After all, a taxpayer
4 who is litigating a tax of several hundred thousand
5 dollars is not terribly concerned about court costs.

6 MR. STEWART: As long as they are deductible?

7 MR. GOODMAN: Even if they are non-deductible
8 they are still a relatively small percentage of the tax
9 involved, of course. Legal fees might be another matter,
10 solicitor and client fees. It seems to me where there
11 are relatively small amounts involved the situation is
12 most unfortunate. I can tell you of a case I had myself
13 where the Tax Appeal Board had decided in favour of the
14 taxpayer and the amount involved was about \$3,000.00 in
15 taxes. The Department of National Revenue appealed and
16 upon consideration of the matter it was felt it simply
17 could not be proceeded with, bearing in mind that in the
18 event the matter was not successful my client would be
19 faced with approximately \$2,000.00 in overall costs, the
20 cost of his own lawyers and the cost of the Department of
21 National Revenue. This seemed entirely out of line. Where
22 the line is to be drawn, \$5,000.00, \$20,000.00 or
23 \$3,000.00 is a matter of consideration.

24 MR. STEWART: Thank you. Those are my only
25 questions.

26 THE CHAIRMAN: Let us move on to the Excise Tax
27 which is the next part of your submission. I know Mr.
28 Goodman has views on this probably in addition to those
29 submitted here. I have heard him speak on it. Do you
30 wish to add something to what is before us, Mr. Goodman?



1 MR. GOODMAN: Yes, Mr. Chairman, I would like
2 to add these comments. I find it most discouraging that
3 although present legislation has been assailed for quite
4 a number of years, and I think justifiably assailed, not
5 the slightest attempt has been made to remedy any of these
6 defects. The report of the Committee of which you were
7 Chairman, Mr. Chairman, still gathers dust and I regret
8 that the business community has not seen fit to take up
9 the cudgels in connection with this matter. It seems to
10 me if the chartered accountants and lawyers and the business
11 community who were able by reason of their agitation to
12 bring in the new Income Tax Act in 1948 should put their
13 minds to this legislation which collects a tremendous
14 amount of tax in an extremely arbitrary fashion, that it
15 could be modified.

16 I look forward to the day when all sales taxes
17 are levied at the retail level, when the amount of tax
18 will be known directly by the consumer and where the
19 effect of pyramid of tax will be minimized. It seems to
20 me retail tax would eliminate most of the problems that
21 exist under the present legislation dealing with wholesale
22 discount and arbitrary decisions, the basis upon which the
23 tax has been levied. If the Federal Government is not
24 prepared to accept a retail sales tax collected jointly
25 with the province, with those in the province which
26 presently levy such a tax it seems to me that there is a
27 possibility of reducing some of the arbitrariness of the
28 present system by transferring the level at which sales and
29 excise taxes are imposed from the price which the wholesaler
30 pays to the manufacturer to the price which the retailer



1 pays either the manufacturer or the wholesaler. This,
2 of course, is the submission which the majority of the
3 Committee of which you were Chairman, Mr. Chairman,
4 recommended some years ago. The problems under the
5 present legislation I have enumerated, the major problems
6 in my view, enumerated on page 19: The lack of any clear
7 statutory basis for the "wholesale discount" procedure,
8 which I think is shocking, the arbitrary powers conferred
9 on the Minister under Section 37 of the Excise Tax Act
10 which allows the Minister to set a fair price on which the
11 tax should be levied, those are the exact words of the
12 statute, irrespective of whether the transaction is at
13 arm's length or not and without any external standard or
14 right of appeal. Thirdly the lack of adequate appeal
15 procedure for contesting assessment for excise tax and
16 sales tax, and finally a matter which is particularly
17 dear to the lawyers' heart, the peculiar nature of the
18 criminal penalty for non payment of taxes. I have
19 attempted to deal with each of these in turn and perhaps the
20 best method, Mr. Chairman, might be to ask Mr. Stewart
21 if he would question me on each of them in turn.

22 THE CHAIRMAN: Thank you. Like you yourself I
23 have been simply amazed that there has not been a great
24 public outcry against a tax which is virtually levied in
25 different amounts on different taxpayers purely at the
26 discretion of the responsible Minister. I think perhaps
27 the lack of outcry might have been due to the fact that
28 the person concerned with the paying of the tax and
29 the assessment against him doesn't in most cases bear the
30 tax; he passes the tax on to somebody else, and the ultimate



1 man who bears the tax knows very little about how the
2 amount was arrived at. If that is a fact it is a
3 strong argument in favour of taxes being in the open and
4 not in any way concealed. I merely suggest perhaps that
5 is the reason. I don't know.

6 MR. STEWART: Mr. Chairman, I have a few
7 questions. It may be the best course will be to take Mr.
8 Goodman's numbered points under the Excise Tax Act one by
9 one. Dealing with the first, I take it, Mr. Goodman, that
10 your objection to the "wholesale discount" procedure, and
11 I am assuming now that we still have the manufacturers'
12 sales tax, that your objection is not so much to the
13 procedure as to the fact that there is no statutory basis
14 for it.

15 MR. GOODMAN: And no right of appeal. It seems
16 to me, Mr. Stewart, that many centuries ago English law
17 established Parliament should impose taxes, and people
18 went to jail in order to establish this principle and it
19 should not be left to the whim of an administrative
20 officer, no matter how responsible he may be. That is the
21 basic attitude I have to it.

22 MR. STEWART: Could we move away from the
23 manufacturer's sales tax and consider as you did the
24 possibility of a wholesale sales tax, which is the
25 suggestion that the earlier Committee made. Is there a
26 problem there of discrimination as between the purchaser
27 from the wholesalers? Is there a danger that the large
28 retailer would get preferred treatment over the small
29 retailer?

30 MR. GOODMAN: Yes, that is a difficulty. I think



1 you can express it in its simplest form by forgetting
2 about the wholesaler and considering the situation where
3 the manufacturer sells directly to a retailer. He sells
4 a particular item to the ordinary retailer at \$1.00 and
5 will sell to a large chain organization for, say, eighty
6 cents. Unless tax is imposed at the retail price charged
7 by that retailer there is going to be discrimination. The
8 English solution to this problem is, of course, something
9 called "up-lift" which seems to me to be "wholesale
10 discount" procedure turned on its head.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



IR/dpw 1 I do not think it would be a desirable institu-
2 tion at all.

3 MR. STEWART: Then if we go one step further
4 and consider a retail sales tax as opposed to a whole-
5 saler's sales tax, or manufacturer's sales tax, do you
6 consider that this is feasible in this country until such
7 time as we have sales taxes in each province and some uni-
8 formity in the applicable legislation?

9 MR. GOODMAN: I should think so, sir. It seems
10 to me that the Federal and Provincial Governments should
11 be able to get together to adopt a uniform retail sales
12 tax act to provide for joint collection. I think the
13 provinces having organizations suited for this, at the
14 present time, could very well collect on behalf of them-
15 selves and the Federal Government and those provinces
16 which do not choose to institute retail sales taxes, and
17 I think that is their privilege, the Federal Government
18 could set up administration to do so.

19 MR. STEWART: Where the provinces do levy a retail
20 sales tax, your suggestion is predicated on uniform legis-
21 lation?

22 MR. GOODMAN: Yes.

23 MR. STEWART: And I take it from your brief that
24 you consider that where there is a joint taxation operation,
25 it is the Province rather than the Dominion which would
26 look after collections?

27 MR. GOODMAN: I would think so, because the
28 Province of Ontario has already been able to institute a
29 very efficient set-up even in the short time in which the
30 Ontario tax has been in effect. The other provinces have



1 had their legislation for some years and I think they are
2 the proper people to do it.

3 MR. STEWART: My only other question on this
4 particular point is a more general one, Mr. Goodman. Have
5 you considered the relative merits of the types of sales
6 tax that we have in this country, and the turnover tax or
7 value added tax which exist in some of the European
8 countries?

9 MR. GOODMAN: Yes. I have considered them only
10 as a lawyer interested in sales taxes, not as an expert on
11 fiscal policy.

12 It appears to me, Mr. Stewart, that a value
13 added tax involves a great deal of bookkeeping which I
14 would consider to be unnecessary if the same level of taxa-
15 tion were imposed at the retail level, because each person
16 through whom a product or raw material passes, must calcu-
17 late the tax which is payable in a rather complicated
18 fashion. I can see a lot of opportunities for evasion,
19 and I can also see difficulty in the proliferation of
20 forms and returns and assessments. In addition, the value
21 added tax contains certain questions of pyramiding, I
22 believe, necessarily because there is an interval of time
23 during which the materials or the process comes down the
24 chain of distribution and I think the retailer would expect
25 to make a mark-up on the actual price which he paid, which
26 included an element of tax imposed at the manufacturer's
27 or wholesaler's level.

28 MR. STEWART: Mr. Chairman, on point one under
29 the Excise Tax Act which covers the portion of Mr. Goodman's
30 submission from the bottom of page 19 to the top of page



1 23, I have no further questions.

2 THE CHAIRMAN: Do any of us wish to raise any
3 question with regard to the wholesale discount procedure,
4 not points 2, 3 or 4?

5 COMMISSIONER WALLS: I would like to deal with
6 your preference for the retail sales tax rather than the
7 wholesale to retail sales tax. In showing that preference,
8 are you, to some extent, not ignoring political expediency
9 in the difficulty of getting the provinces and the Federal
10 Government together on one combined tax?

11 MR. GOODMAN: I am not ignoring the political
12 difficulty, Mr. Walls, but I am attempting to point to the
13 desirability of attempting to achieve that degree of
14 co-ordination.

15 COMMISSIONER WALLS: Then you gave as one of the
16 reasons, which has been given to us before, that the
17 consumer would know what tax he or she would pay. Well,
18 that may be true insofar as each individual purchase is
19 concerned. In other words, if it were 10% total tax, if
20 she paid \$110, she would know she was paying \$10, but they
21 would be no closer to knowing how much over the year they
22 were paying as taxes, as they do in income taxes that they
23 pay today.

24 MR. GOODMAN: That is true.

25 COMMISSIONER WALLS: In effect, then, it is
26 almost a hidden tax in itself, in that the consumer has
27 no conception at the end of the year as to how much he has
28 paid out in consumer taxes. Am I not right?

29 MR. GOODMAN: I think partly it is a question of
30 definition as to what is a hidden tax. It seems to me a tax



1 that is marked on the label, or automatically paid when
2 buying merchandise can hardly be classed as a hidden tax.
3 In addition, I suspect that the average housewife has a
4 pretty good idea of how much she has spent during the
5 course of a year on taxable commodities in any province
6 where retail sales tax is imposed, far better than her
7 husband.

8 COMMISSIONER WALLS: Then the next subject you
9 have dealt with, and that was the ministerial discretion;
10 we had one party advise the Commission that in spite of
11 the disadvantages to ministerial discretion, the fact
12 remained that in relationship to the amount of money
13 collected, there was a great deal less disagreement than
14 there was in any of the other taxes whereby it was
15 completely covered with the t's being stroked and i's
16 being dotted legally.

17 MR. GOODMAN: I think part of the answer to this
18 is that businessmen who are, after all, only a minority of
19 all taxpayers for income tax purposes, are 100% of the
20 taxpayers under the Excise Tax Act and I would think that
21 the number of situations which cause difficulty in the
22 Excise Tax Act as a proportion to the number of taxpayers
23 is at least as high as the number of situations which cause
24 difficulty in income tax. After all, the income tax with
25 the vast majority of people in this country is collected
26 without controversy or difficulty.

27 COMMISSIONER WALLS: But as far as points of law
28 are concerned under the Sales Tax you have got just as
29 much recourse to the courts as under any other legislation;
30 it's only under point of fact, isn't it?



1 MR. GOODMAN: No, sir. The fundamental question
2 in most cases is what wholesale discount is a particular
3 manufacturer entitled to when he sells directly to
4 retailers rather than to wholesalers.

5 Now, the law on this subject is somewhat unclear
6 as the result of a decision in the Supreme Court of Canada
7 in the Laboratoires Marois Limitée case.

8 However, it is distinctly possible that there is
9 no right of appeal whatever from the Minister's fixing of
10 a wholesale discount, neither for an industry nor for a
11 particular firm in that industry.

12 Now, in addition, there are many situations in
13 which transfers take place between various units of
14 corporate enterprises and in that case the Minister has
15 power to fix a fair price on which the tax should be
16 levied under Section 37 and he may fix it in a completely
17 arbitrary fashion without any possible appeal to the courts.

18 Now, I find these, frankly, shocking, Mr. Walls.

19 COMMISSIONER WALLS: I just have one other ques-
20 tion on this point. If you move the sales tax forward to
21 retail level, then of very necessity will you not have to
22 discontinue many of the exemptions? In other words, what
23 would be the purpose of exemption on machinery of produc-
24 tion if you are going to move the sales tax forward to
25 retail level?

26 MR. GOODMAN: The Ontario Statutes, and I believe
27 the Statutes in most provinces generally exempt all
28 machinery used ---

29 COMMISSIONER WALLS: Farm machinery only.

30 MR. GOODMAN: No, sir. In Ontario, it certainly



1 goes far beyond that.

2 COMMISSIONER WALLS: In our province, British
3 Columbia, only production machinery is farm machinery.

4 MR. GOODMAN: That is not true in Ontario.

5 COMMISSIONER PERRY: Half on one side and half
6 on the other. Half of them do, in fact, exempt production
7 machinery.

8 COMMISSIONER WALLS: You would still advocate
9 the continuation of all the present exemptions under
10 retail sales taxes?

11 MR. GOODMAN: Yes. Obviously the exemption on
12 raw materials flowing to another licensee would be of no
13 consequence.

14 COMMISSIONER WALLS: I appreciate that.

15 MR. GOODMAN: But generally speaking the major
16 exemptions which are, I think, the machinery used directly
17 in production, would have to be continued in order to
18 prevent pyramiding of taxes.

2 19 COMMISSIONER GRANT: Just one question on
20 constitution. I suppose from the practical point of
21 view, Mr. Goodman, if there were a federal sales tax and a
22 provincial sales tax at the consumer level, they would have
23 to be shown separately on the receipt?

24 MR. GOODMAN: I should not think so, sir, no
25 more than there is any constitutional requirement that the
26 income tax which the Federal Government collects for itself
27 and the provinces would have to be shown separately.

28 It is shown separately for reasons which I would
29 consider to be primarily political.

30 COMMISSIONER WALLS: Just one other short



1 question. I don't know whether you have got this far or
2 even dealt with it; what would you think if you combined
3 both the excise tax and the sales tax into a graduated tax
4 instead of having two taxes?

5 MR. GOODMAN: The excise tax ---

6 COMMISSIONER WALLS: It's ad valorem in respect
7 of cigarettes and ad valorem on all other products.

8 MR. GOODMAN: I think you are confusing excise
9 duties which are imposed under the Excise Act with the
10 excise tax imposed under the Excise Tax Act.

11 COMMISSIONER WALLS: No, I am not. Excise duty
12 applies only to liquor and tobacco, to bring it to the
13 same level as imported products. Your Excise Tax Act has
14 items in the 10% class or the 15% class plus there are
15 those with an 11% sales tax. What do you think of
16 combining these two ad valorem taxes on a graduated scale
17 tax structure at retail level instead of having two taxes?

18 MR. GOODMAN: Well, I find it very difficult to
19 justify, in principle, an excise tax on certain commodities
20 which is really a type of sumptuary legislation designed
21 to discourage the consumption of certain products, or to
22 raise the revenue from a particularly complacent group of
23 taxpayers. I would be very happy if revenue consideration
24 would permit the elimination of excise taxes on specific
25 products.

26 It seems to me, in fairness, a person who spends
27 \$100 on consumer products of any kind should pay approxi-
28 mately the same kind of tax irrespective of the kind of
29 product he buys.

30 MR. STEWART: Mr. Goodman, under the heading



1 "Appeal Procedure" you refer to an article which appears
2 in the Canadian Bar Review and which was written by your-
3 self and having looked at that article I observe that the
4 last sentence reads this way:

5 "The time is surely right for a revision of
6 the Excise Tax Act which would provide for a
7 simplified right of appeal initiated by the
8 taxpayer for all the types of distribution
9 arising under the Act."

10 That was in 1954. And then in 1956, of course,
11 a Sales Tax Committee dealt with this same question of
12 appeal and recommended that there should be appeals on the
13 following, among other questions or matters: valuations,
14 non-arm's length transactions, exemptions, status as manu-
15 facturer and penalty assessments. This is one of the
16 instances, I take it, where you consider that it is high
17 time some action was taken?

18 MR. GOODMAN: I think it would not be unfair to
19 say that the present Chairman has expressed to me his view
20 that we are, perhaps, or the Carter Commission did not go
21 far enough in dealing with that particular section. It
22 seems, as I recall, and the Chairman will correct me, the
23 conspicuous absence of appeals dealing with wholesale
24 discount from the list might perhaps cause the Chairman of
25 this Commission some doubts at the present time.

26 I myself believe that it is quite possible to
27 establish a statutory basis for wholesale discount, if we
28 have to maintain the present type of taxation; that a
29 manufacturer who sells exclusively to retailers, would have
30 an obligation to show what an appropriate wholesale price



1 would be upon which tax should be levied and he would have
2 a very considerable onus in establishing this. Without
3 doubt he would have to give a great deal of information
4 concerning the operation of his business and if he were
5 prepared to do so and his case was a cogent one, I think
6 he should be entitled to succeed.

7 The fact that other taxpayers in the same
8 industry may be similarly afflicted, I do not think has
9 anything to do with it. If the administration, as a result
10 of a successful decision for one taxpayer, decides to
11 modify its administrative practice, that is well and good.
12 That is what is intended. I do not think it is essential
13 that the whole industry situation be brought into litigation
14 in order to decide one taxpayer's affairs. This is the
15 fallacy I think which the Department of National Revenue
16 and the branch officials have espoused, and I believe it is
17 a fallacy because our experience in dealing with areas of
18 income tax laws shows that we have exactly the same
19 questions which are resolved quite satisfactorily without
20 reference to what the other taxpayer is doing.

21 I can give a simple example of this: a corporate
22 taxpayer pays a certain salary to one of its chief execu-
23 tives. The Department of National Revenue says the salary
24 is unreasonable to the extent of \$5,000. The corporation
25 is then free to appeal from the disallowance of the deduc-
26 tion for \$5,000 and it must show that it is reasonable in
27 two circumstances.

28 Now, obviously, one of the circumstances is what
29 is the going rate which is paid for executives and what
30 other companies in similar circumstances do pay. These



1 are factors which are probably not going to be brought in
2 evidence for the simple reason that this information is
3 not available. It will have to be decided on the basis
4 of the facts relating to this particular taxpayer.

5 I think the same argument applies when we are
6 dealing with wholesale discount, but if we have to have
7 this type of peculiar legislation; if it is, in fact, in
8 statutory form, with a right of appeal, then when Company A
9 sells to Company B, it is going to have to justify the base
10 upon which it imposed taxes if it disagrees with the Depart-
11 ment's calculation.

12 THE CHAIRMAN: I think, Mr. Goodman, that the
13 report of the Sales Tax Committee referred to the need for
14 appeals in respect of valuations. The term "valuation"
15 was intended, to the best of my recollection, to take care
16 of wholesale discounts.

17 MR. GOODMAN: I did not read it that way, sir.

18 THE CHAIRMAN: I may not be correct on that, but
19 that was our intention.

20 MR. STEWART: One recommendation of that Committee,
21 Mr. Goodman, as I recall, was that whatever appeals were
22 provided for should be taken to a Board which would consist
23 of an amalgamation of the Tariff Board and the then
24 Income Tax Appeal Board; have you given any thought to the
25 nature of the tribunal that might be set up?

26 MR. GOODMAN: I have given some thought to it but
27 I have not arrived at any firm conclusion on it, Mr.
28 Stewart.

29 MR. STEWART: Well now, one or two questions on
30 the last section of your submission, which has to do with



criminal penalties.

What is your view on the question whether sales tax should be payable by a manufacturer if he has himself been unable, or is himself unable, to collect the tax?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30



K/EMT/ss 1

MR. GOODMAN: I do not see anything that is
2 inherently wrong with that, Mr. Stewart. I do find it
3 very objectionable when it is coupled with criminal
4 sanctions in the event that he does not pay it. Here the
5 manufacturer sells a commodity and he is supposed to
6 collect \$10.00 tax or \$11.00 on each \$100.00 from his
7 customer, and he has not actually collected it, and if he
8 does not pay it, he goes to jail. I think this is
9 utterly unreasonable.

10 We can have it either way I think fairly.
11 Either impose criminal sanction upon the manufacturer who,
12 having collected the tax fails to remit it, or treat it
13 as a civil debt payable by the manufacturer whether or not
14 he collects from his customer. I find it very unfair to
15 treat it both ways.

16 MR. STEWART: This next question I do not regard
17 as of particular importance, but you appear to be exercised
18 about the fact that the Minister at the moment under this
19 legislation has a right of recourse against the members of
20 partnerships and against the directors and officers of
21 companies which is expressed in very broad terms.

22 You do concede that you do not think this legis-
23 lation is abused particularly, and while I have not checked,
24 I have the recollection that you would find similar pro-
25 visions in other statutes such as the Winding Up Act, the
26 Bankruptcy Act and so on. Is it really unusual or unreason-
27 able to allow a Minister to have this right?

28 MR. GOODMAN: Well, I would say this: If we
29 granted that there were criminal sanctions properly
30 applicable, let us say, the Act were amended in such a way



1 that it applied only to tax which had been collected and
2 not remitted, then I would say officers of a company should
3 be liable, personally, for any tax evasion which they
4 have assisted in, and it would not be at all improper I
5 think for liability to be imposed on the officers of a
6 company cumulatively.

7 Where, however, that liability is calculated by
8 reference to the tax which was evaded or sought to be
9 evaded, then I think that portion of the penalty which is
10 in effect reimbursement to the Government of this tax,
11 should be paid once and once only. I do not think the
12 statute should permit a situation where in theory at least
13 the strict wording of the statute allows the tax to be
14 collected a number of times.

15 MR. STEWART: You indicate in that regard what
16 the practice is.

17 MR. GOODMAN: The practice is a good one.

18 MR. STEWART: And do you in fact know of cases
19 where prosecutions have been launched where the manufacturer
20 has not in fact been able to collect the tax?

21 MR. GOODMAN: Oh, yes, and I know of situations
22 where people have gone to jail for non-payment of tax.

23 MR. STEWART: Those are all my questions.

24 THE CHAIRMAN: Thank you, Mr. Stewart. Have you
25 any questions? I think those are all the questions, Mr.
26 Goodman. We are indeed grateful to you for all you have
27 done for us and the excellent submission you have made and
28 the very able way you have answered the questions. Thank
29 you sincerely for your appearance here today.

30 MR. GOODMAN: Thank you, Mr. Chairman,



1 Commissioners. I feel it is an honour to be invited to
2 participate, particularly at the opening session.

3 THE SECRETARY: Mr. Chairman, I have a brief
4 which I wish to enter into the record. It was received
5 in the Commission's offices on the 29th of March, 1963 on
6 behalf of the Independent Insurance Agents, members of the
7 Canadian Confederation of Insurance Agents and Brokers
8 Association. This brief was submitted to the Commission
9 offices by Fred G. Funston, Secretary Manager, and I would
10 like to enter it into the record as Exhibit 36.

11 THE CHAIRMAN: They are not appearing?

12 THE SECRETARY: They are not appearing.

13 THE CHAIRMAN: Thank you, Mr. Secretary. No
14 further business this morning? The next hearing?

15 THE SECRETARY: The next hearing, 9:30 tomorrow.
16 We have Professor Sands of the University of Toronto
17 appearing, and following will be the Canadian Pharmaceutical
18 Association.

19 THE CHAIRMAN: Thank you very much. We will
20 stand adjourned until tomorrow.

21
22 ---EXHIBIT NO. 36: Brief of the Independent Insurance
23 Agents.

24
25 --- Adjournment.
26
27
28
29
30



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

1
2
3
4 ROYAL COMMISSION ON TAXATION

5 Hearing held in Howard Ferguson
6 Auditorium, Sir Daniel Wilson
7 Residence of University College,
8 University of Toronto, Toronto,
9 Ontario, on Thursday, the 2nd
day of May, 1963.

10 COMMISSION:

11 MR. KENNETH LeM. CARTER -- Chairman

12 MR. J. HARVEY PERRY

13 MR. A. EMILE BEAUVAIS

14 MR. DONALD G. GRANT

15 MRS. S.M. MILNE

16 MR. CHARLES E.S. WALLS

17 LEGAL ADVISER:

18
19 MR. J.L. STEWART, Q.C.

20 RESEARCH DIRECTOR:

21
22 PROF. D.G. HARTLE

23 SECRETARY:

24
25 MR. G.L. BENNETT
26
27
28
29
30



ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 2, 1963

TOPICAL INDEX

VOLUME No. 12

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a) <u>INTRODUCTION:</u>		
	Opening remarks of the Chairman	925
(b) <u>Submission: Of</u>		
	Professor J.E. Sands, (Associate professor of Commerce Department of Political Economy University of Toronto) (An individual taxpayer)	925
13	13 Corporate Income Tax - Accumulations and Distributions	930 / 946, 951
14	20 Equity Ownership by Canadians	951
15	21 Estates Taxes, Gift Taxes	956, 957
16	27 Incidence of Taxation	944
17	33 Personal Income Tax - Capital Gains	927, 928 937 / 944 947 / 949
18	36 Personal Income Tax - General Concept	926 / 931
19	53 Taxation of Non-Residents	946
20	(c) <u>SPECIFIC DISCUSSIONS:</u>	
21	Preamble	925, 926
22	The occupation and qualifications of the participant	925
23	Proposal, distinction between Income from personal services v/s Income from ownership of property, abandonment of regardless of type, substitution of Capital Gains as income, Some basic points of view	927 / 944, 948 954
24	Property Income, division of in two main classes, realized and unrealized income. A definition of;	929 / 940
25	Proposal, Corporations be taxed as partnerships. A quotation from " Henry Simons"	924, 940 / 945 947
26	Management influenced in respect to Capital expenditures by profit position in relation to taxation and resultant control of taxable income	935 / 937



1	<u>Professor Sands</u>	<u>Volume No. 12</u>	
2	<u>Titles</u>	<u>Description</u>	<u>Page</u>
3	(c)	<u>SPECIFIC DISCUSSION (Continued)</u>	
4		A point of, A new position between distributed and non-distributed profits out of Corporations for purpose of economic direction	937 / 944 947
6		A reference to a proposed taxing of the " Increase in Value of shares" of stock above purchase price at point of realization based upon accounting conventions, effect of on Government revenue and expenditures	938 / 945 948 / 954
9		Distribution of Profit related to class of shares governed by indenture of issue, and others	943, 944
10		Corporate distribution other than cash, a personal problem tax-wise	946
12		Implication tax levied on income deemed distributed abroad be same level as present Corporate profits tax	946
13		The problem of taxing retained earnings in the Corporate shareholders hands and the resultant effect exemplified	951 / 953 956 / 958
15		Proposal, Taxing of property of heirs as a sale, value differential at time, resultant increase would be taxable	954 / 956
17		Taxing system as proposed, if adopted, what effect it would have on dividend policies, and other factors of share values	958
19		A tax advantage pertaining to Small Businesses, based upon investment in Assets or Volume of Sales, not in the prescence or absence of Incorporation	959
21		Closing remarks of the Chairman	959
22			
23			
24			
25			
26			
27			
28			
29			
30			



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

iii

Toronto, May 2, 1963

Volume No. 12

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(d)	<u>Submission: Of</u>	
	<u>Canadian Pharmaceutical Association</u>	
	<u>Incorporated</u>	960
	Opening remarks of the Chairman	960
34	Personal Income Taxes - Deductions	965 / 967, 969 976 / 986
35	Personal Income Taxes - Exemptions and allowances	965 / 967, 969 976 / 986
46	Sales Tax - Federal	961 / 964 972 / 976
(e)	<u>SPECIFIC DISCUSSIONS:</u>	
	Preamble	960 / 968
	Removable of 11% Federal Sales Tax, reasons advanced	961 / 964, 972, 973
	Effect of Federal Sales Tax as a cost borne by ill and diseased persons in Canada . Comparative statistics	961, 962
	Suggested elimination of 11% Sales Tax by amendment to schedule (III) of the Excise Tax Act under section 32	965
	Proposed elimination of the 3% net income clause related to medical expenses in computing the taxable income. Its effect and problems	965, 969 / 972
	A point of reference in respect to convention and out of pocket expenses of the members of the Pharmaceutical profession, treatment of	966, 967 976 / 981
	Occupation and qualifications of The representative of the participant, and nature of the Association and its functions	968, 969
	Medical expenses, hospitalization, Provincial plans as related to non- hospitalization of persons, effect of 3% provision and statutory exemption	972
	A question of the mark-up of selling price as related to Sales Taxes and the resultant effects on income and profit of average retail pharmacy	972, 974
	Some statistics on pharmacists	974
	Association viewpoint in respect to changing level at which Federal Sales is applied or could be applied	974, 975
	A reference to the Provincial Sales Tax	975, 976
	Closing remarks of the Chairman	981



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May 2, 1963

iiii

Volume No. 12

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
37	Submission of Professor J.E. Sands (Associate professor of Commerce Dept. of Political Economy, University of Toronto)	925
38	Submission of The Canadian Pharmaceutical Association, Incorporated	960
39	Brief of Mr. Frank Dorosh, Stoney Creek, Ontario.	981



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, Ontario, 925
Thursday,
May 2nd, 1963.

3/dpw 2 --- On commencing at 9.30 a.m.

3 THE CHAIRMAN: Mr. Secretary, would you intro-
4 duce our visitor to us this morning?

5 THE SECRETARY: Mr. Chairman, Commissioners, we
6 have this morning before you Professor J.E. Sands of the
7 University of Toronto. Professor Sands has submitted his
8 brief and is here this morning to speak to it. I would
9 like to enter this brief into the record as Exhibit No. 37.

11 --- EXHIBIT NO. 37: Submission of Professor J.E. Sands.

13 THE CHAIRMAN: Thank you, Mr. Secretary. Good
14 morning, Professor Sands. Thank you for your submission
15 which you sent in to us. It has provided us, indeed, with
16 some interesting reading. We are looking forward to hearing
17 more. Professor Sands, you are a Professor of the Univer-
18 sity of Toronto?

19 PROF. SANDS: Associate Professor.

20 THE CHAIRMAN: Department?

21 PROF. SANDS: Political Economy.

22 THE CHAIRMAN: Political Economy?

23 PROF. SANDS: Yes.

24 THE CHAIRMAN: You are an economist?

25 PROF. SANDS: Well, that depends on how you
26 define "economist." I am an accountant by training. I
27 teach accounting and economics in the Department.

28 THE CHAIRMAN: You are not a chartered accountant?

29 PROF. SANDS: Yes.

30 THE CHAIRMAN: You are; I beg your pardon. In



1 preparing this submission for us, I assume that this repre-
2 sents your views and your views alone. You are not joined
3 together with any group?

4 PROF. SANDS: No, it is my own.

5 THE CHAIRMAN: You are coming forward as an indi-
6 vidual to give us the benefit of your ideas?

7 PROF. SANDS: Yes, that is right.

8 THE CHAIRMAN: Now, Professor, would you like to
9 address yourself to us in amplification or modification or
10 further discussion of this submission or would you like us
11 to proceed to ask you questions?

12 PROF. SANDS: Well, I have only one statement of
13 that sort to make initially, and that is, I made an altera-
14 tion in the submission after it was originally submitted.
15 I have copies of that alteration here.

16 THE CHAIRMAN: We received that yesterday.

17 PROF. SANDS: You received that, fine.

18 THE CHAIRMAN: We all have copies of that.

19 THE SECRETARY: Mr. Chairman, the brief has been
20 amended as entered into the record.

21 THE CHAIRMAN: Is that all?

22 PROF. SANDS: That is all.

23 THE CHAIRMAN: Commissioner Perry?

24 COMMISSIONER PERRY: Mr. Chairman, I have gone
25 through this brief myself several times and found its basic
26 conception rather intriguing. I might just begin at the
27 beginning and clarify a few points that occur to me. It
28 is quite obvious that the basic conception here is to
29 discard all our present distinctions between income from
30 property and personal services and treat in the same way



1 all income from property, abandon the differences between
2 corporate and unincorporated business, the distinction
3 between retained and distributed earnings and to introduce
4 a capital gains tax as well. These seem to be the main
5 points of departure from the present arrangement. Would
6 you agree that that is so, Professor Sands?

7 PROF. SANDS: Well, there are two comments I
8 would make in answer to that. First, I didn't suggest
9 that the distinction between income from personal services
10 and income from ownership of property should be abandoned,
11 only that no differences should be made as to what type,
12 within the property category, that any differences which
13 presently exist are arbitrary. The other thing; with
14 respect to the imposition of capital gains tax, you could
15 put it that way, but I would prefer to put it that the
16 notion of capital gain should be discarded entirely rather
17 than imposing a tax on so-called capital gains, but the
18 authorities should stop trying to define and distinguish
19 capital gains as a form of income.

20 COMMISSIONER PERRY: This is an economist's
21 concept of what is income. You are not saying that capital
22 gains should be treated as income; you are saying they are
23 income?

24 PROF. SANDS: Perhaps I am saying there is no
25 such thing as a capital gain.

26 COMMISSIONER PERRY: There is a gain measuring
27 the difference in value of a property between points of
28 time which is something different from other forms of
29 receipt, at any rate. However, I get your main point,
30 that in your conception there is no such thing as capital



1 gain, that the gain that arises is income period. With
2 respect, I would like to suggest to you that the program
3 that you have developed here would not produce
4 a simple tax structure. I don't rest on my own authority
5 here; most observers of countries where - and I will have
6 to go on using the word "capital gain" - where capital
7 gains are taxed agree that this introduces a whole range of
8 new complicated problems which are normally in addition to
9 those which are found under the more universal type of
10 income tax. I don't think, therefore, that your proposal
11 would achieve much simplicity. That doesn't bother me too
12 much because I am beginning to feel this is an objective to
13 which we are largely paying lip service, anyway.

14 Getting down to your specific proposal and just
15 clearing up one point to begin with, I see that in dividing
16 income into these two main streams, personal services and
17 property ownership income, in paragraph 9 you suggest that
18 these two might be taxed at different rates. Are you
19 proposing there that we, in fact, abandon the principle of
20 aggregation of income and have one tax rate applying to
21 personal income and another applying to property ownership
22 income?

23 PROF. SANDS: Well, that is not an essential
24 aspect of my proposal. I suggest that it might be desirable
25 for the reasons outlined. I don't think that is an essential
26 aspect of the submission.

27 COMMISSIONER PERRY: I agree that it is not. It
28 was just a point that arose at the very outset on considera-
29 tion of this. It is almost the only point you make in
30 proposing that the two streams be separated.



1 THE CHAIRMAN: So I might understand; in that
2 paragraph 9, if I understand it, the "For purposes of
3 economic control" that you mention there would require
4 two rates of taxation or schemes of taxation, and if one
5 doesn't have those two there is no purpose to paragraph 9
6 whatsoever; am I correct? When you say it is not essential
7 you mean it is not essential to distinguish between
8 personal income and property ownership?

9 PROF. SANDS: Perhaps I should put it this way:
10 I think it would be desirable for the purpose of economic
11 direction and control but I don't think that paragraph in
12 itself is essential to the overall submission.

13 THE CHAIRMAN: Thank you.

14 COMMISSIONER PERRY: The only ~~other~~ area which I
15 discovered this has much significance in is the area of
16 the assessment of an isolated part of the income of an
17 unincorporated business which is attributable to personal
18 services.

19 PROF. SANDS: This is the area in which there
20 would be difficulties.

21 COMMISSIONER PERRY: Yes, but this seems to be
22 the one other area in which you give much emphasis to this
23 concept. Anyway, ~~let's~~ assume they are separated on some
24 basis or another and I think our main attention is
25 obviously then directed to the treatment of property owner-
26 ship income. I think your main thesis is set out in para-
27 graph 7. It is preceded by a prior statement that all
28 property ownership income should be taxed as realized and
29 in 7 you set out the proposition, at least you make this
30 more concrete, by saying you divide property income into



1 two main classes, realized and unrealized income.

2 Realized income is defined in general as gains
3 that have been proved by sale and non-realized income is
4 gains that haven't been proved by sale. I find a little
5 conceptual difficulty in applying this to your treatment
6 of corporate profits where your proposition is that these
7 be taxed as if distributed to the shareholder each year.
8 I find it confusing as to just what realized means in this
9 connection. It must mean realized by the corporation
10 because the shareholder would have done nothing. He
11 wouldn't have bought, sold or received anything during the
12 year. In other words, on his part there has been no act
13 of realization whatsoever.

14 I find I have a little difficulty with the
15 application of this concept to the shareholder who has
16 done nothing whatsoever. He has simply been a shareholder
17 throughout the year. Your proposition is that he be
18 deemed to have received some income. I think in that case
19 your concept of realization must apply at a different level.
2 20 It must apply at the corporate level. Do you see my diffi-
21 culty? It isn't mine alone. We all had this problem.

22 PROF. SANDS: Well, I deal with this question
23 further on somewhere, if I can find it.

24 COMMISSIONER PERRY: If I may put it more bluntly,
25 when does a corporate shareholder realize the income that
26 has been retained by the corporation?

27 PROF. SANDS: I would say at the same time that
28 a non-corporate investor realizes his income.

29 COMMISSIONER PERRY: This doesn't quite fit your
30 definition of realized which implies an act of sale.



1 PROF. SANDS: An act of sale by his business.

2 COMMISSIONER PERRY: All I am suggesting is that

3 I think your definition needs a little refinement to carry
4 this point.

5 PROF. SANDS: In the part beginning with para-
6 graph 43, I have attempted to clarify this question of
7 realization of income.

8 COMMISSIONER PERRY: It was paragraph 43 that
9 confused us more than ever, I am afraid, because it speaks
10 of investments being sold and this sort of thing.

11 PROF. SANDS: Yes. When you make an investment
12 in a group of assets you can't tell your profit accurately
13 on that group of assets until you sell all of them. When
14 you make an investment in a business you can't tell your
15 profit in total from the business until the entire
16 business has been sold, but you can make an estimate of
17 profit at interim stages, and, in fact, these are done
18 regularly by accountants, as we all know.

19 COMMISSIONER PERRY: You are anticipating a
20 little bit. I have some questions on that. I think we
21 have cleared up the main point as far as the shareholder
22 is concerned. From year to year he is deemed to have
23 received the profits of the corporation whether there has
24 been any act of sale or purchase on his part.

25 PROF. SANDS: If I may clarify this question of
26 realization with, perhaps, one more comment. As I say, you
27 can't tell the full profit on a business investment until
28 the entire investment is liquidated, but accounting esti-
29 mates on portions of that profit earned year by year are
30 made regularly and I am suggesting the tax should be levied



1 on this estimate, year by year, and then an adjustment
2 made when the entire investment is liquidated, if there is
3 any difference between the total gain and the accounting
4 estimates.

5 COMMISSIONER PERRY: All right.

6 COMMISSIONER BEAUVAIS: May I ask a question?

7 COMMISSIONER PERRY: Certainly.

8 COMMISSIONER BEAUVAIS: Professor, you say a
9 group of assets should be valued, say, every year, and if
10 there is a difference between the valuation and the cost
11 it should be taxed?

12 PROF. SANDS: I am saying that accounting esti-
13 mates of this sort are made regularly.

14 COMMISSIONER BEAUVAIS: Take investment in shares
15 and bonds in corporations; if, at the end of the year, it
16 shows that value has increased how would you tax that
17 value?

18 PROF. SANDS: I would tax the accounting income
19 of the corporation and when the individual sold his shares,
20 if it turned out he had made a bigger profit than the
21 accounting estimates indicated, a bigger profit in terms
22 of the difference between the purchase and selling price
23 of his security, I would say he should be taxed at that
24 time on the difference.

25 COMMISSIONER BEAUVAIS: Yes, I know, but before
26 selling those investments you would tax just the same, the
27 difference?

28 PROF. SANDS: I would base the accounting
29 estimates of its profit, not the stock market.

30 COMMISSIONER BEAUVAIS: Suppose there is a



1 decrease in the value, would you ask for a refund?

2 PROF. SANDS: If the difference between the
3 stock market or the security sale value and purchase
4 value - if the difference between these values was less
5 than the accounting estimates on the income, yes, a rebate
6 allowance should be made, rebate adjustment should be
7 made.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



B/MR/ss 1 Now, if it is a building, a factory, a plant you would
2 advise a valuation of that plant every year in order to
3 know if there is an added value to be taxed?

4 PROF. SANDS: No, I simply say that taxes should
5 be levied as at present, on an accounting estimate of
6 income until such time as the property is liquidated.

7 When the property is disposed of by sale,
8 then you can make an adjustment but in the meantime,
9 simply calculate your income on the basis of accounting
10 estimates at present.

11 THE CHAIRMAN: Mr. Beauvais, if I understand
12 this correctly, the Professor does not intend to change
13 the accounting convention. He intends the balance sheet shall
14 be drawn as presently drawn. He only recognizes changes
15 in value as they are now recognized. Am I correct?

16 PROF. SANDS: Yes.

17 COMMISSIONER BEAUVAIS: I understand. If you
18 have a plant that costs you \$100,000.00, and I forget the
19 depreciation at present, at the end of the year the
20 value is \$150,000.00 of that plant, the book value, account-
21 ing value is \$100,000.00, would you tax the \$50,000.00?

22 PROF. SANDS: No, not unless the building was
23 sold at that time.

24 COMMISSIONER BEAUVAIS: Thank you.

25 COMMISSIONER PERRY: Prof. Sands, the most
26 revolutionary of your proposals is that, in effect, corpo-
27 rations be taxed as partnerships. There are two or three
28 aspects of this that occur to me. I gather that you
29 share the feeling of some others that corporate management,
30 as under present arrangements exerts too great an influence



1 over the way in which capital expenditures will be made,
2 so that it would be desirable to have the corporate
3 funds subjected to the test of a market and that the
4 device of assuming the profits to have been distributed
5 would contribute to this end.

6 I just wonder if in fact whether it would,
7 because one way of avoiding a tax on retained profits is
8 not to have profits, or to reduce your profits. One way
9 to reduce your profit is to increase capital expendi-
10 tures. I am just wondering whether corporate management
11 may not feel even a greater challenge to expand its
12 capital expenditures in advance of the computation of
13 profits in order to reduce what they would regard as the
14 leakage to the shareholders in order to retain the kind
15 of position which they now have.

16 Is there not a real possibility here, assuming
17 for the moment that there is any impetus behind the
18 desire of management to plan its own capital expenditure
19 program, of that happening? That is a very leading
20 question, of course, but it did occur to me that if the
21 price of having profits was that these profits were going
22 to be deemed to have left their control, then the answer
23 would be to prevent those profits from arising, which
24 would also retain the kind of control which they have
25 enjoyed previously.

26 PROF. SANDS: Well, it was not my intention to
27 imply that I thought corporate management had too much
28 control over investment. This may or may not be the case.

29 There are different opinions about it. What I
30 was suggesting was that the present tax structure produced



1 an artificial influence in that direction, towards
2 corporate expansion, expanding corporate investment. That
3 is, there was a distortion of business enterprise inherent
4 in the present tax structure. I was not attempting to
5 make any value judgment, whether it was more desirable
6 for corporate management to have more or less control
7 over business investments.

8 COMMISSIONER PERRY: I was just suggesting that
9 your proposal might even introduce more distortion.

10 PROF. SANDS: Well, I find the idea of corporate
11 management engaged in more spending to reduce profits a
12 little bit hard to conceive.

13 COMMISSIONER PERRY: I don't think this is
14 exactly what I meant, but as you know, the dynamism
15 of management is to expand and you do this by capital
16 expenditures. It might just be that there would be more
17 pressure in this direction rather than less, or may not
18 be any change at all. I am just asking for your view.

19 PROF. SANDS: I would think it is possible that
20 there might be more pressure in that direction. I think
21 it would depend on how successful corporate management
22 might be in wanting to expand and in resisting pressures
23 from shareholders for the payment of dividends out of
24 which they could pay the taxes.

25 COMMISSIONER PERRY: It may just possibly be
26 that this would be done with the full consent and agreement
27 of the shareholders in order to avoid the dividend being
28 declared.

29 PROF. SANDS: If it were done with the full
30 consent of the shareholders, then I think there could be



1 no objection to it.

2 THE CHAIRMAN: I want to explore this, because
3 it seems to me a very important point which you have set
4 before us, this matter of finding, first of all, a new
5 position between distributed and non-distributed profits
6 out of corporations. You seek to have them both taxed
7 the same, both distributed and non-distributed and I am
8 wondering if we are not abandoning a very important
9 economic control.

10 Is it not a good thing to be able at times to
11 encourage further investment by companies and at other
12 times to discourage it?

13 PROF. SANDS: At one stage, I am not certain
14 where it is, I suggested here that the taxes that would
15 be payable on business income should be paid in part by
16 the business management and the remainder by the share-
17 holders. If the minimum tax rate was 20% on such income,
18 it would be possible to require business management to
19 pay the 20% and the shareholders to pay the balance.

20 THE CHAIRMAN: I observed that, but that is merely
21 a mechanical device to assist the revenue in collecting
22 taxes. It did not seem to me that was a matter of economic
23 control.

24 PROF. SANDS: The intention was it could be varied
25 for purposes of economic direction.

26 THE CHAIRMAN: You think that would be effective?

27 PROF. SANDS: Yes.

28 COMMISSIONER GRANT: Prof. Sands, may I refer to
29 that reference which you made to the taxing of the increased
30 value based on accounting, that a share of stock would have



1 over and above its purchase price. It would be taxed on
2 that increased value. Am I right?

3 THE CHAIRMAN: When realized, Prof. Sands said.

4 PROF. SANDS: When a man ---

5 COMMISSIONER GRANT: I thought it would be paid
6 even when not realized, but based upon the accounting
7 estimate, then the difference would be paid, if anything,
8 after the stock was sold and the value realized.

9 PROF. SANDS: The intention was this: That when
10 a man bought a stock in a corporation, he would be taxed
11 on his share of the corporate profit as estimated by
12 current accounting conventions for the period that he
13 owned that stock. When it came time for him to sell the
14 stock, when he sold the stock, then any difference between
15 the selling price and the purchase, his original purchase
16 price of the accounting estimates for his share of the
17 profits, any balance adjustment would become taxable or
18 allowed for tax rebate as the case may be.

19 COMMISSIONER GRANT: Allowed for a tax rebate.
20 Now, on that latter point, say, for instance, that the
21 market underwent a severe decline and when New York drops
22 off, say, 15, 17 points, we reach the actual dollar value
23 of the decline in stocks listed on the New York Exchange
24 which amounts to so many, say, billions of dollars. Would
25 you anticipate that this would be a serious difficulty
26 in the Federal authorities' budgeting for their expenditures
27 if they were due to severe market decline; suddenly con-
28 fronted with large requests for refunds?

29 PROF. SANDS: Well, of course the request for
30 refunds would only come from people who had sold their



1 securities. If there were a substantial decline and the
2 majority of shareholders did not sell their securities,
3 then there would be no grounds for a rebate.

4 COMMISSIONER GRANT: But this eight billion
5 dollars of decline has been caused by people who have sold
6 their securities.

7 PROF. SANDS: But not all people, necessarily.

8 COMMISSIONER GRANT: I know, but it represents,
9 say, a large dollar volume. Would you anticipate that
10 that would have an influence on the budget?

11 PROF. SANDS: I would anticipate that it would
12 not be as easy, or perhaps I should say there would be
13 some additional complication involved in budgeting the
14 revenues with a scheme such as I have proposed.

15 However, I don't think that those difficulties
16 would be so serious as they could not be overcome. I
17 should think in one or two years of experience with such
18 a system that the authorities could budget fairly accurately.
19

20 COMMISSIONER GRANT: Except that sometimes the
21 market acts in cycles over a much larger period, or longer
22 period than the time that you have indicated.

23 PROF. SANDS: Well, we face, or at least the
24 authorities are faced with difficulties of this sort,
25 because all business fluctuates generally. That is, it is
26 not entirely a new problem.

27 THE CHAIRMAN: I think I would draw your attention
28 to the fact that losses are not as you submit dependent
29 upon realization. The accounting rules, of course,
30 recognize losses before realization and it may well be that



1 the security losses to which Mr. Grant refers should be
2 taken into account and accepted before realization, and
3 it would aggravate the revenues or the
4 lack of revenues upon the decline of the market, would it
5 not?

6 PROF. SANDS: I would perhaps suggest that
7 changes in security value should be taken up before
8 realization in calculating taxes, that is not my sugges-
9 tion.

10 THE CHAIRMAN: It is not your suggestion?

11 PROF. SANDS: No.

12 THE CHAIRMAN: It is not covered in what you have
13 submitted, because you talk about income rather than losses,
14 I think.

15 PROF. SANDS: Well, I am not making any proposal
16 concerning the allowance by loss as at present loss
17 carry forward and backward, and so on, for tax purposes.
18 I have not made any proposal with respect to that. I don't
19 think that anything that might be done in that respect
20 would alter this submission.

21 COMMISSIONER PERRY: Prof. Sands, to get back to
22 your proposal that corporations be taxed as partnerships,
23 I went back to my Henry Simons when I read your brief.
24 Are you familiar with Henry Simons?

25 PROF. SANDS: I know of him, yes.

26 COMMISSIONER PERRY: He goes a little bit beyond
27 you. In fact, he evolved what he thought was the perfect
28 tax system. He threw in consumption with personal income
29 and taxed all gifts, bequests and thought that he had
30 produced the perfect tax system. Now, he does consider



1 this business of corporate retained earnings and comes
2 up with a different answer. I would just like to read you
3 his comments here, and this is all directed towards the
4 treatment of corporations simply as partnerships for the
5 purpose of taxation, and I quote:

6 "That it would involve serious administra-
7 tive difficulties is apparent immediately. The
8 worst of these have to do with the allocating of
9 undistributed earnings among different classes
10 of owners. If all corporations were thoroughly
11 solvent, and if their security issues were
12 uniformly restricted to three or four standard
13 contract forms, the task would not be altogether
14 forbidding. Difficulties of principle would
15 still arise; but they probably could be dealt
16 with adequately by rule-of-thumb devices. On
17 the other hand, where companies have a great
18 variety of contracts with their investors, and
19 where some classes of securities represent no
20 clear equity at all, apportionment is almost out
21 of the question. The names of securities tell
22 one almost nothing; and the specific terms of
23 investment contracts have clear meaning only for
24 the normal (?) case of prosperous, conservatively
25 financed enterprises.

26 Good apportionment of corporate earnings
27 would require thorough investigation of every
28 individual company and careful appraisal of its
29 earnings prospects. One should know the specific
30 terms of all outstanding contracts, the various



1 rights and options attaching to different kinds
2 of shares, and the financial condition and out-
3 look of the enterprise as well. If it were
4 possible to locate a single class of truly
5 residual claimants," I think this is the
6 problem you get down to, "the task would not be
7 so hard. But what should be done with badly
8 financed concerns or with those unable
9 ordinarily to distribute anything to one or
10 more classes of investigators?"

11 He deals with these problems at some length
12 and ends up with the conclusion that these kind of diffi-
13 culties make it impossible to operate this scheme. I
14 think Simons was straining to make it possible at that
15 point, but finally abandoned it himself on the grounds
16 of the practical difficulties involved, and one can easily
17 imagine the sort of things he has in mind where a
18 corporation year after year pays something on its preferred
19 shares and ~~nothing~~ on its common shares, and pays off its
20 interest on its borrowed indebtedness, suddenly it comes
21 to a year in which it has a very large profit, and based
22 on its past experience, is deemed to have distributed its
23 profits immediately to its shareholders and may, of its
24 own volition, in that year not declare anything to its
25 common shareholders.

26
27 ---

28
29 ---
30



MT/dw 1 This is a rather simple case. A more extreme
2 case is where you have a whole range of issues, as you
3 know quite well, with just hairline distinctions between
4 them as to sharing up to a dollar amount after something
5 has been paid on another issue. What is your answer to
6 this? How would you contemplate that that difficulty be
7 overcome?

8 PROF. SANDS: Well, I disagree with Professor
9 Simons on two grounds. I do not think there is a perfect
10 tax system, and secondly, to get to the point at issue,
11 the accountants are faced with this problem of allocating
12 profits as between different equity shareholders constantly,
13 and are able to do it on some presumably logical ground.

14 If it should turn out in the long run that some
15 error has been made in the allocation of profits as between
16 the different types of security holders, they would, of
17 course, have that error adjusted when the time came to
18 sell their security.

19 COMMISSIONER PERRY: Well, I appreciate that this
20 can be done on some basis or other, but it certainly would
21 not be a simple basis which is self-demonstrating to the
22 shareholders as you suggest might be possible.

23 PROF. SANDS: I submit that this is done regu-
24 larly in financial statements in accounting reports; allo-
25 cations of profits to the various classes of security
26 holders are made.

27 THE CHAIRMAN: I think the point there, of course,
28 is that that is done with regard to distribution of profit
29 and all the contracts which govern the distribution of
30 profits, the indenture provisions with regard to preferred



1 shares that one finds in charters and so on are all drawn
2 having regard to profits distributed, not profits undistri-
3 buted, and it seems to me if one extended these contracts
4 and statements to undistributed profits, there would be
5 quite a rash of litigation.

6 I would suspect that there would be numerous
7 disputes in this area although, perhaps, that is not good
8 enough reason for condemning the idea. Maybe it is still
9 a good idea in spite of that, but I do not see how the
10 present undertaking could be carried out easily.

11 PROF. SANDS: Well, perhaps I do not appreciate
12 the problem entirely, but it would seem to me there is
13 always one class of shareholder in a residual position,
14 and that the other equity holders have their positions
15 spelled out specifically in the security they hold. If
16 you allocate the profits to the senior security holders
17 on the basis of the security contracts they hold, the
18 balance goes to the residual equity.

19 THE CHAIRMAN: The balance may well be a debit,
20 of course?

21 PROF. SANDS: Yes.

22 THE CHAIRMAN: And if it is a debit, to whom
23 should it be charged? Should it be charged to the residual
24 shareholders or should it be charged somewhere up the line?
25 I do not know. It will vary from one case to the other.

26 PROF. SANDS: Since the residual owners are going
27 to be the ones to take the loss if such a loss should
28 happen, then I would say it should be allocated to them.
29 Of course, I visualize some difficulty here if the concern
30 was on the verge of liquidation, in which case, perhaps,



1 some of this loss would be suffered by senior equity
2 holders.

3 However, if that were the case, on liquidation
4 an adjustment would be made and that would not be far off
5 in any event.

6 THE CHAIRMAN: I think one would not encounter
7 difficulties if the system had always been in effect, the
8 terms and conditions to which we refer. Having regard to
9 all the problems, I simply say to change it suddenly
10 would involve us in a lot of disputes.

11 PROF. SANDS: Perhaps there is another answer to
12 that. I do not suggest for a moment that this proposal
13 would not involve some working out. I am sure that there
14 would be difficulties that I have not been able to antici-
15 pate. However, I think they would not be insoluble.

16 COMMISSIONER PERRY: I am inclined to agree. I
17 was impressed by the fact that Simons thought these practical
18 problems insurmountable to the point that he abandoned the
19 idea of taxing corporations as partnerships. In fact, I
20 assume your answer would have been that this would require
21 corporate boards of directors to make a statement of what
22 the distribution would have been had there been a distribu-
23 tion.

24 PROF. SANDS: Yes.

25 COMMISSIONER PERRY: There would have to be
26 corporate judgment exercised each year as to how the profits
27 of that year would have been distributed, had there been a
28 distribution, and, in fact, there might be a distribution.

29 PROF. SANDS: I do not know whether I would agree
30 entirely with the word "judgment." I would say it would be



1 based on the terms of the security issues. There would
2 not be, I should think, much room for judgment.

3 COMMISSIONER PERRY: Well, I had not realized
4 these things were quite as specific as that. My previous
5 experience had suggested that they were not. However,
6 let us pass on. I think it is agreed that there is a
7 fairly substantial practical problem involved here which
8 may or may not be vital.

9 THE CHAIRMAN: We have, Mr. Perry, also referred
10 to the practical difficulty of making distribution without
11 cash and requiring people to pay personal income tax on
12 graduated rates without receipt of cash to make payment
13 for all the taxes. I think that is a practical difficulty.

14 PROF. SANDS: This is a general problem, of
15 course. Lots of businesses make profits without having
16 cash available for payment of taxes.

17 COMMISSIONER PERRY: Well, Professor Sands had
18 anticipated that comment himself so I had not mentioned it.
19 One aspect of this of which I think that you are conscious
20 but perhaps not to the extent that I am, is simply this:
21 to a large extent our corporate profits tax as it now
22 stands is a withholding tax on non-resident ownership.
23 As you know, the dividends that go abroad are substantially
24 greater than those retained in Canada, and I believe you
25 do cover that point in paragraph 21.

26 May I read that as implying that the tax that
27 would be levied in effect on income deemed to have been
28 distributed to people abroad would be about the same level
29 as the present corporate profits tax?

30 PROF. SANDS: Well, I carefully avoided any



comment on tax levels simply because I did not want to becloud the issue that I was trying to make. I should say that any tax level could be set which was thought to be appropriate.

COMMISSIONER PERRY: This is more than a matter of beclouding the issues. There is a very substantial amount of revenue involved, and I think it would be a serious disadvantage - in fact, if you read the terms of reference you find we are required to maintain sufficient revenue to enable the Federal Government to carry on; at least our proposals are required to be within that framework. Any lower tax than the present corporate rate could represent a very substantial loss of revenue.

PROF. SANDS: Well, let me put it another way. There are various sources of revenue, as we know. This is one of them. It may be desirable, again for purposes of economic direction and control, to maintain the current level of taxation on non-resident shareholders, or it might be appropriate to raise it or lower it. This is a more general problem I thought of deciding from what sources our revenue should come and for what purposes.

COMMISSIONER PERRY: We have lots of evidence that would support your fulminations against the corporate tax as such. I think your main point here, of course, is to establish that there is no rationale for distinguishing between business income earned in corporate form as opposed to unincorporated form; both should be taxed alike. I think you make that point amply clear.

Now, from 31 on we get into the other aspect of



1 your proposals, namely that we tax as income what are
2 commonly regarded as capital gains, and I use that expres-
3 sion simply because there is no easy substitute for it.
4 Some of the practical aspects of this again trouble me a
5 little bit. I think they arise out of the point that some
6 of the other Commissioners were getting at earlier where
7 you contemplate sort of a general final reckoning and say
8 that at this day of reckoning the total values accrued
9 would be assessed, and from them would be deducted the
10 values which had been determined over a long period by the
2 11 application of accounting rules to the income earning
12 process.

13 I just wondered how, in fact, this would work
14 out. For example, let us take a simple case of a common
15 stock. The normal process by which you determine the gain
16 in value would be to take a value at one point of time and
17 another point of time, the latter being the time of sale,
18 and determine the difference and apply the tax to that
19 difference.

20 Now, how, in that concept, do you introduce the
21 idea of offsetting what has already been taxed in accor-
22 dance with accounting principles or, in fact, taxed from
23 year to year? Can you give more substance to that for me?

24 PROF. SANDS: Perhaps I can best give an example.
25 If someone bought a share for \$100 and he held it for five
26 years, let us say, and the corporation reported income on
27 his share of \$10 per year so that he had reported income
28 of \$50 over the five years. Then suppose that at the end
29 of five years he sold it for \$200. He had bought it for
30 \$100 and he has sold it for \$200, so, in fact, he has made



1 \$100 on that investment.

2 He has paid a tax on \$50, which was the reported
3 income of the corporation. Therefore, there is a tax
4 adjustment of \$50 on which he must pay tax. However, I
5 would not suggest that the full \$50 should be taxable as
6 marginal income in the year of sale. Instead I would
7 suggest it should be taken as an average of \$10 per year
8 over the five years, and he should be taxed at the rate
9 which would apply to the \$10, not to the \$50.

10 In other words, if there was a very large lump
11 at the end, it could put him in a very high tax bracket
12 simply because he had held his shares for a long period of
13 time.

14 COMMISSIONER PERRY: This is a recognition that
15 of the present time would go into the growth value of his
16 stock simply because it would represent retained earnings.
17 Under your system it would have been taxed to him year
18 after year, and that only the income and value beyond that
19 should be treated as income?

20 PROF. SANDS: Yes. I am saying that only the
21 measurable income, or, if you like, realized in that sense,
22 realized by sale or measurable in an absolute way, only
23 that income should be taxed as you go along, and that, of
24 course, would be the basis for taxing the difference on the
25 sale of the entire investment.

26 THE CHAIRMAN: Might I inquire whether some
27 adjustment of this calculation should not be made with
28 respect to any monies withdrawn from the business to the
29 person during the five-year period such as by way of divi-
30 dends?



1 PROF. SANDS: Yes.

2 THE CHAIRMAN: Well, under the example which you
3 have recited here, assuming that there would be no divi-
4 dends, if he sold for \$200 having paid \$100 I can under-
5 stand there is a profit of \$100, but if he had, during
6 the five-year period, taken \$50 out in dividends or \$10 a
7 year, there would be a profit of \$150, I think, at that
8 point, would there not?

9 PROF. SANDS: Yes.

10 COMMISSIONER PERRY: In your concept it would
11 involve a frightful amount of bookkeeping, would it not,
12 for the average shareholder?

13 PROF. SANDS: That is inherent in the tax system,
14 generally, I should think.

15 COMMISSIONER PERRY: I do not think it is quite
16 this inherent.

17 PROF. SANDS: I do not think it is unreasonable
18 that a man should keep track of his income from corpora-
19 tions any more than it is that he should keep track of
20 his income from other sources.

21 THE CHAIRMAN: Professor, may we go over this
22 example again? Mrs. Milne is having a little difficulty
23 with it, and if she is, I probably am, too, although I had
24 not at the moment recognized it. We assume that the tax-
25 payer bought a share at a cost of \$100 and held it for five
26 years, selling it for \$200.

27

28

29

30



PB/ss 1 During the five years he received dividends of \$50.00
2 so that he had \$200.00 plus \$50.00 or \$250.00 at this
3 point, and the cost was \$100.00 and therefore he made a
4 profit of \$150.00. He paid a tax of \$50.00 and therefore
5 he must be taxed on the other \$100.00.

6 COMMISSIONER MILNE: I thought that Prof. Sands
7 said he would be taxed on \$50.00.

8 THE CHAIRMAN: He did, but he hadn't thrown in
9 the dividend which I did, because I didn't understand. Is
10 that right?

11 PROF. SANDS: Yes, that is right.

12 COMMISSIONER PERRY: I think those are my
13 questions, Mr. Chairman. I imagine there are others.

14 COMMISSIONER BEAUVAIS: I have a couple of
15 questions, Professor. What worries me is what you say in
16 your Article 14. It may be very simple to tax retained
17 earnings in the hands of the shareholders, but in
18 many corporations and especially family corporations when
19 the control is held by a majority, the minority shareholders
20 will suffer, because they won't have any distribution of
21 earnings. They will have to find the cash to finance
22 something they didn't receive and they have no way in

23 many instances to sell part of their shares, because
24 they are shares of a private company. It seems to me that
25 is an undue hardship in those cases. Moreover, in our
26 terms of reference we have to suggest ways and means to
27 increase investments by Canadian investors in Canadian
28 equity shares, so if the investors know that they will
29 have to finance the retained earnings without receiving
30 them, they might well say, well we are going to buy bonds



1 and so forth and won't have any bother with that. It
2 might reduce the incentive to buy equity shares. Would
3 you think this is possible?

4 PROF. SANDS: Well, what I am suggesting is
5 that any incentives for whatever purpose should be
6 offered via the rates of tax which are levied, not by
7 making artificial distortions in the framework of the tax
8 system itself. In other words, the small shareholders in
9 small corporations, as far as that problem is concerned, I
10 can conceive of cases in which some difficulty, some undue
11 difficulty might be encountered and I think perhaps some
12 provision might be made for such cases. I would like to
13 know on the basis of actual cases of such difficulty. I
14 would like to know more about those difficulties before I
15 would propose a specific solution to that problem.

16 COMMISSIONER BEAUVAIS: Professor, I don't mean
17 only small businesses. I have some experience in large
18 businesses being held by families and the minority share-
19 holders cannot even borrow on their shares, so if they are
20 to borrow to pay their share, maybe 48% of the retained
21 earnings, and not only in small companies, but in many
22 cases in large companies I am quite sure there would be an
23 undue hardship.

24 PROF. SANDS: I may be wrong, but it seems to me
25 there are not proportionately many cases in which a man
26 does not either get enough income in the form of cash out
27 of his security or in the sale to cause a serious problem.

28 COMMISSIONER BEAUVAIS: If they sell under such
29 circumstances they will have to sell at a loss, I am afraid.
30 It is not even in the case of a private company, but take



1 an investor that might buy 100 shares of Nickel or any
2 other company that usually distribute 50% of the earnings.
3 If they receive \$1.00 a share, \$100.00 they are deemed to
4 have received another \$100.00 and they have to pay taxes
5 on \$200.00.

6 PROF. SANDS: If you exempt them from that tax
7 you are making an interest-free loan for investment.

8 COMMISSIONER BEAUVAIS: They will pay on the
9 \$100.00 they receive, but my point is whether it is logical
10 to tax him on \$100.00 he will have not received in the
11 year it is earned.

12 PROF. SANDS: I would say yes, it is. The value
13 of their securities is increased by that amount.

14 COMMISSIONER BEAUVAIS: Maybe the stock market
15 has not gone up to that extent. Sometimes it even goes
16 down.

17 PROF. SANDS: It is a hazard.

18 COMMISSIONER BEAUVAIS: I don't think there is
19 corrolation between a retained earnings and the increase
20 in the value of the stock on the market.

21 PROF. SANDS: Well, of course, stock market
22 values change, as we know, for many reasons which are
23 unrelated to retained earnings. It is a risk anyone who
24 invests in stocks must assume.

25 COMMISSIONER BEAUVAIS: There is not a risk, but
26 a certainty that he will have to pay on the retained
27 earnings he isn't receiving.

28 PROF. SANDS: I am saying that the value of his
29 stock will increase by the amount of the retained earnings.
30



1 It may decrease for other reasons, but it has increased
2 for the amount of the retained earnings.

3 COMMISSIONER BEAUVAIS: If the results of the
4 reasons have produced a decrease, then it wouldn't be
5 taken into consideration in taxing the shareholder on the
6 retained earnings?

7 PROF. SANDS: Not in that year, when he sells
8 the shares.

9 COMMISSIONER BEAUVAIS: There is another point,
10 in Section 45 you suggest to consider the taxing of
11 property of an heir or heirs as a sale, and if there is
12 a difference in the value of the property at that time
13 and the cost, this increase would be taxed. That is an
14 undue hardship, because at the present the estate
15 has to pay very substantial death duties, and over that
16 they will have to pay income tax on whatever the increased
17 value of the assets are at the date of death.

18 PROF. SANDS: If you are not to do that, then
19 some taxes can be postponed indefinitely. You have to
20 establish some point at which taxes become payable, this
21 adjustment is made between accounting estimate and the
22 total economic gain. You cannot postpone that adjustment
23 indefinitely or you lose the amount of tax and this may go
24 on for hundreds of years. My suggestion is that you
25 establish a point at which this adjustment must be made as
26 the point of sale or transfer, a transfer takes place
27 either by market sale or transfer to heirs on the death
28 of the original shareholder. I recognize that this means
29 perhaps that even greater amounts of tax may become payable
30 than at the present on the death of a shareholder. However,



1 if you omit that, then you would be exempting from that
2 tax those shareholders.

3 COMMISSIONER BEAUVAIS: It is just like if you
4 buy a property today and you keep it for 40 years. At
5 some point the property will be sold. There are very few
6 cases that the same property remains there for 100 years.
7 It seems to me if any tax is to be collected from that
8 increase in value, it should be at the time of disposal.

9 PROF. SANDS: Well, in that case someone who
10 bought shares in the Hudson's Bay Company and passed them
11 down from father to son for the past several hundred
12 years would still not pay adjustment on tax.

13 COMMISSIONER BEAUVAIS: Not according to your
14 suggestion, because the retained earnings would be taxed.

15 PROF. SANDS: But not adjusting the difference
16 between the market value.

17 COMMISSIONER BEAUVAIS: It might be, but this
18 would be the exception. Usually within 100 years a
19 property has changed hands.

20 PROF. SANDS: Corporations have an unlimited
21 lifetime.

22 COMMISSIONER BEAUVAIS: I mean shareholders.

23 PROF. SANDS: There are many corporations which
24 don't show any signs of winding up.

25 COMMISSIONER BEAUVAIS: It is not necessary to
26 wind them up. The shares can be realized or sold at
27 any time without winding up the corporation.

28 PROF. SANDS: Oh yes, of course, and many people,
29 perhaps, will sell their shares, however there will be,
30 undoubtedly, families that will hold shares in such



1 corporations and will pass them from father to son from
2 generation to generation.

3 COMMISSIONER BEAUVAIS: In some instances, yes.

4 PROF. SANDS: And they would never become taxable
5 on this adjustment if such arrangements were made.

6 COMMISSIONER BEAUVAIS: You mean adjustment
7 over and above retained earnings.

8 PROF. SANDS: Yes.

9 COMMISSIONER BEAUVAIS: I have another question.

10 THE CHAIRMAN: Before you go to that, may I
11 point out, Prof. Sands, this matter you raise is to some
12 extent being debated in the United States at the present
13 time. They are not proceeding with the principle you
14 espouse of taxing on income in the hands of shareholders
15 whether or not distributed, but they are proposing to
16 revalue shares passing on succession and to recognize
17 the enhanced or diminished value at that time. This
18 they haven't done in the past. The proponents of that
19 who are the Treasury Department state their failure to do
20 so in the past has caused certain shares to be locked in,
21 because executors and/or the beneficiaries don't wish to
22 face up to the tax, and therefore they have continued to
23 hold shares they perhaps otherwise would not have held.
24 The opponents to the proposal say very much the same thing
25 that Mr. Beauvais says. So far the Ways and Means
26 Committee have not reported and we do not know what their
27 considerations are.

28 COMMISSIONER BEAUVAIS: When you open an estate
29 the shares that are in the estate are valued at the
30 present value and at the time there is an estate tax paid.



1 You would have an income tax over and above that?

2 PROF. SANDS: If I may break in at that point,
3 I am not suggesting any more hardship should be caused to
4 people in respect to the payment of taxes on death
5 or succession duty, but what I am suggesting is while
6 the present situation does create this hardship, I don't
7 think the rest of us should grant a tax exemption to people
8 because of that difficulty. I think we should all pay
9 taxes the same way. I suggest it might be appropriate
10 to permit shareholders to pay advances on such taxes and
11 succession duties and so on in anticipation of those
12 taxes on death, so as not to impose an unreasonably heavy
13 burden at one particular point in time.

14 COMMISSIONER BEAUVAIS: Can you pay death duties
15 in advance?

16 PROF. SANDS: I see no reason why you shouldn't,
17 why such a provision should not be made.

18 COMMISSIONER BEAUVAIS: There is no provision
19 right now.

20 PROF. SANDS: That is the whole purpose of this
21 submission, of course.

22 COMMISSIONER BEAUVAIS: My last point, Professor:
23 Of course, if there is a deficit in a corporation and in a
24 year you have substantial earnings the deficit will be
25 made good before taxing the shareholders on those earnings,
26 wouldn't it?

27 PROF. SANDS: Well, as I said earlier, I haven't
28 made any specific proposal for dealing with business
29 losses. They involve economic considerations with which I
30 wasn't prepared to deal in this submission.



1 COMMISSIONER BEAUVAIS: Of course I am not on
2 the economic considerations, but on equity, because if a
3 company has a profit one year and two years deficit, it
4 wouldn't seem equitable to tax the shareholder on that
5 one year.

6 PROF. SANDS: No, on the grounds of simple
7 equity losses should be allowed just as profits are taxed.
8 However, the economic factors of this are something else
9 again.

10 COMMISSIONER BEAUVAIS: I am not suggesting
11 this on that ground, just on the equity ground. Thank you,
12 Professor.

13 COMMISSIONER GRANT: Just one question, Prof.
14 Sands. If the taxing system which you advocate were put
15 into operation, what would you think of the effect it
16 might have on dividend pay-out?

17 PROF. SANDS: I think more dividends would be
18 paid.

19 COMMISSIONER GRANT: Therefore you would say there
20 would be less fluctuation in the value of shares?

21 PROF. SANDS: Well, I think more dividends would
22 be paid, because I think there would be greater shareholder
23 pressure for dividends out of which to pay tax. I think
24 inevitably this would have the effect that corporate share
25 values would not increase as rapidly as they do for the
26 simple reason there would be less retained earnings.

27 COMMISSIONER GRANT: There would be other
28 factors however, that could cause the value of the shares
29 to go either up or down, such as inflationary factors,
30 speculative factors.



1 PROF. SANDS: Yes, retained earnings is not the
2 only one element that has an impact on share values.

3 THE CHAIRMAN: You mentioned in Paragraph 27
4 "If a tax advantage is to be given to small businesses
5 it should be based on investment in assets or volume
6 of sales, not on the absence of incorporation". I am
7 not at all sure that the absence of incorporation has a
8 tax value. It may in some cases, but in other cases it
9 doesn't. There are thousands, ten's of thousands of
10 small businesses which are incorporated, and usually the
11 judgment of that deals with tax. I think there is as much
12 in favour of taxing incorporation as there is against it
13 in the case of a small business. Do you find the contrary?

14 PROF. SANDS: No, I am sorry. There is an error
15 in the exposition. I should have said not in the
16 presence or absence of incorporation.

17 THE CHAIRMAN: All right. Thank you very much,
18 Professor. I think we have now finished with this. We
19 have no further questions. You have given us a good deal
20 to think about. I can assure you we will think. This has
21 been a very interesting discussion for which we are all
22 grateful. Good day, sir.

23 We will stand down for ten minutes.

24
25 ---Short recess.
26
27
28
29
30



E/MR/dpw

1 THE CHAIRMAN: Mr. Secretary, would you be so
2 kind as to introduce our guest?

3 THE SECRETARY: Mr. Chairman, Commissioners, we
4 have officers with us this morning from the Canadian Pharma-
5 ceutical Association. Mr. J.C. Turnbull, Secretary-Manager
6 of the Association is here, who wishes to speak to the
7 brief, and I would like to enter this brief into the
8 record as Exhibit No. 38.

9
10 --- EXHIBIT NO. 38: Submission of the Canadian Pharma-
11 ceutical Association Incorporated.

12 THE CHAIRMAN: Thank you, Mr. Secretary. Good
13 morning, Mr. Turnbull. It is our usual practice to receive
14 from those who appear before us a few words in addition to
15 their submission, either expanding, summarizing or speaking
16 to it, and then we proceed to direct our questions. Some-
17 times we start immediately to question, depending upon what
18 our visitor would like us to do. Would you care to speak
19 to us before we ask any questions?

20 MR. TURNBULL: Mr. Chairman, I have a few remarks
21 prepared which may add to the hearing this morning by way of
22 expansion or explanation of certain of the points made in
23 our brief. If it is your wish, I would be pleased to
24 present them.

25 THE CHAIRMAN: By all means, proceed.

26 MR. TURNBULL: First, Mr. Chairman and members of
27 the Commission, I wish to draw your attention to the brief
28 that has been presented as an exhibit this morning in that
29 on page 5 of that exhibit is an amended page from that
30



1 originally transmitted to the Secretary of the Commission
2 one or two months ago.

3 That page contains only minor amendments and if
4 you wish, for the record, I would point out that on page 5,
5 as amended, paragraph 5.1 now reads:

6 "The Excise Tax Act exempts from federal
7 sales tax cortisone, adrenocorticotrophin
8 (ACTH), insulin, radium, poliomyelitis
9 vaccine and liver extract for anemia.
10 Except for these six specific drugs (not
11 drug classes), an 11% federal sales tax
12 is applied....."

13 The balance of that paragraph remains as origi-
14 nally transmitted.

15 THE CHAIRMAN: Thank you.

16 MR. TURNBULL: I would first like to speak to
17 our recommendation that the Income Tax Act be amended to
18 provide for the removal of the 11% federal sales tax from
19 medicinal preparations and therapeutic appliances.

20 One part of the price paid by the Canadian
21 consumer for drugs, which is now gaining more public atten-
22 tion but which has been repeatedly drawn to the attention
23 of the Federal Government by the Canadian Pharmaceutical
24 Association, is that portion resulting from the application
25 of the federal sales tax, which, today, is levied at 11%.

26 Exemptions from this tax are very few in number
27 and little influence the total national drug bill.

28 In the preparation of the brief which the Associa-
29 tion presents today, we have related in paragraph 5.2 the
30 effect of this federal tax as a cost to be borne by the ill



1 and diseased persons of Canada - in 1960 almost \$11,000,000.

2 This tremendous burden pertains to expenditures
3 for prescription services, alone, through retail pharmacies
4 and the calculations for 1961 place this figure in excess
5 of \$11,000,000. I have the figures, Mr. Chairman, and
6 would be pleased to add those to that particular paragraph.

7 THE CHAIRMAN: We would like to have them.

8 MR. TURNBULL: If the Commissioners wish, they
9 may wish to just add them. I have them written on my own
10 copy, Mr. Secretary. May I read them?

11 THE CHAIRMAN: Please do.

12 MR. TURNBULL: In paragraph 5.2, beginning with
13 the fourth sentence:

14 "In 1961 total prescription receipts of all
15 Canadian pharmacies was \$133,578,157.
16 Assuming that the cost of the actual medica-
17 tions contained in this value of prescription
18 services is 50%, it may be estimated that the
19 manufacturers' selling price of these drug
20 preparations was \$66,789,079 of which
21 \$6,618,738 was remitted to the Federal Govern-
22 ment as sales tax and \$60,170,341 was retained
23 by the manufacturers. However, the retail
24 pharmacist applies a mark-up on the tax-
25 inclusive invoiced price of the drug.
26 Generally speaking, a mark-up of 40% of
27 selling price is applied so that the \$6.6
28 million collected by the Federal Government
29 by this one tax eventually costs the ill
30 and diseased persons of Canada \$11,031,230."



1 Those are the only different figures in that
2 paragraph which goes on to say "This amount represents
3 8.3% of the total consumer cost of prescription services
4 through retail pharmacies."

5 During the year of 1961 the average prescription
6 price in Canada was \$3.14 of which 26 cents was due to the
7 levy of this one tax. Carrying these calculations further,
8 this tax cost each and every Canadian 61 cents for the
9 year 1961. However, this tax is not levied on the "average"
10 person or the "average" prescription and those requiring
11 large quantities or relatively high cost medication must
12 bear the greatest proportion of the taxation. In effect,
13 the application of the sales tax to drug preparations is a
14 tax on sickness and, as such, it is impossible to justify.

15 Contrary to some of the usual arguments presented
16 to have one tax or another eliminated because it has an
17 adverse effect on the economics of some business enterprise,
18 our representation which seeks the removal of sales tax
19 from medicinal preparations is not related to an adverse
20 effect or otherwise on any segment of the pharmaceutical
21 industry or its ability to better its sales income. Indeed,
22 it can be readily seen that in seeking the elimination of
23 this sales tax, the practising pharmacists of Canada are,
24 in fact, recommending a government action which will sub-
25 stantially reduce the net income of retail pharmacies, all
26 matters being equal.

27 The elimination of the sales tax and its conse-
28 quent effect on the gross mark-up profit in normal business
29 transactions will work a reduction in the actual gross
30 profit of each individual pharmacy in Canada.



1 Notwithstanding this, the pharmacists of Canada have seen
2 fit to urge each year for many years the repeal of this
3 burdensome tax in the firm belief that such action is in
4 the best public interest.

5 Available statistics permit only a generaliza-
6 tion of the present effect of the excise tax in calcula-
7 tions pertaining to the total consumption of drugs, both
8 prescribed treatment and self-medication. The above
9 mentioned figures, pertaining to prescribed drugs only,
10 would, we believe, be increased by 50%.

11 Section 2, para. 1(cc) of the Act defines
12 "pharmaceuticals." An administrative Instruction, No. 2
13 (1)(e), dated September 1, 1962, under the Act elaborates
14 on the interpretation of this definition.

15 Drugs for human use are marketed in Canada either
16 after being registered under the P.P.M. Act or without any
17 registration but in compliance with the Food and Drugs Act.
18 The first named are usually termed "patent medicines," are
19 secret formula preparations, generally advertised to the
20 public and offered for sale in many diverse retail outlets.
21 The latter have become known as "ethical pharmaceuticals"
22 in that they are prepared more specifically for use under
23 professional advice (i.e., on prescription -- and many are
24 legislatively restricted to prescription-only distribution),
25 their full formulae are known and they may be promoted only
26 to the professions. This difference, then, provides a
27 clear delineation by which an amendment to the Excise Tax
28 Act may facilitate the elimination of a burdensome tax
29 from those pharmaceutical preparations marketed to better
30 modern, specific medical practice.



Specifically, we recommend that the federal sales tax of 11% be eliminated by an amendment to Schedule III of the Excise Act to provide exemption under Section 32, para. 1, to all drugs and preparations thereof as defined in Section 2, para. 1(cc) intended for use and distribution only under professional supervision, except those registered under legislation such as the Patent or Proprietary Medicine Act which provides for public consumer promotion and advertising of registered preparations.

Further, we recommend that Schedule III be amended to provide exemption from sales tax of therapeutic appliances and devices distributed similarly to be available to meet the need of the diagnoses of medical practitioners and for use upon their specific direction, except those marketed primarily for their cosmetic effect.

In discussing our recommendation relative to the elimination of the 3% net income clause relative to medical expenses, we wish to point out that the amendments to the Income Tax Act as made in 1958 were, in no small part, due to the influence exerted by the Canadian Pharmaceutical Association. At that time amendments were made to include payments for pharmaceutical services rendered by pharmacists as deductible items for purposes of calculating personal income tax. We are of the opinion, however, that the relief provided is inadequate in view of today's sociological outlook relative to the health care needs of all citizens. "All citizens," of course, include taxpayers.

The provision of income tax relief for 100% of expenditures for personal health care needs provided by qualified professional practitioners will more properly



1 acknowledge the social desirability of sharing with the
2 private individual the monetary burdens of his health care
3 as a member of the Canadian community. Regrettably,
4 figures are not available so that we might advance any
5 calculation in this regard, and we do not believe that it
6 would be possible for other than a Government agency to
7 determine the actual fiscal effect of this proposal to
8 amend Section 27(1)(c) of the Income Tax Act.

9 Our brief also deals with convention expenses
10 for members of the profession, and more specifically, for
11 pharmacists who are employed in some capacity or another
12 of the profession.

13 Our recommendation that the Income Tax Act be
14 amended to give consideration to personal expenditures by
15 all individual pharmacists, both self-employed and employed,
16 in seeking to advance their education and their qualifica-
17 tions through their attendance at conventions and extension
18 courses stems from a recognition of the need for individual
19 practitioners to continually update themselves to provide
20 the best service possible in Canada's many communities.

21 Modern communication and means of travel have
22 made it possible for many individuals to avail themselves,
23 within a very limited span of time, of the opportunities
24 presented by conventions and extension courses. Thus,
25 opportunities formerly available only to the self-employed
26 who could afford both the time and the money required to
27 attend are now open to the employee. Very often today, we
28 find that because of their terms of employment, many
29 employee-pharmacists do avail themselves of these oppor-
30 tunities by utilizing their normal vacation periods and,



1 presumably, vacation money. Also, it must be appreciated
2 that more and more members of the various health profes-
3 sions are in employee categories, either full-time or part-
4 time, and hence any efforts on their part to enhance their
5 professional practice and, in turn, permit others to learn
6 from them during such meetings are undertaken only at
7 considerable personal expense.

8 A pharmacist, be he self-employed or employee,
9 is licensed in connection with his practice. Thus, we are
10 of the opinion that amounts paid by him as a taxpayer on
11 account of expenses incurred in attending meetings of his
12 professional organization should be allowable as deductions
13 under Section 11(1)(1a) of the Income Tax Act. Our reading
14 of this section would indicate that this is purely a matter
15 of administrative interpretation of the legislation and we
16 respectfully request that a more favourable interpretation
17 be applied to it.

18 Those, Mr. Chairman, are the remarks that I have
19 prepared to supplement our brief. If there is anything
20 further that you feel that we could offer, we would be
21 pleased to attempt to do so.

22
23
24
25 -
26
27
28
29 -
30



F/EMT/dpw 1

2 THE CHAIRMAN: Thank you, Mr. Turnbull. I am
3 sure we have some questions to put to you. I have one or
4 two myself. However, before we get into the brief I would
5 like to ask you a few things about your Association of
6 which you are Secretary-Manager.

7 MR. TURNBULL: It is a combination title of
8 Manager and Secretary-Treasurer. Secretary-Manager.

9 THE CHAIRMAN: I take it you are a pharmacist.
10 I see the initials B.S.P.

11 MR. TURNBULL: I am academically trained as a
12 pharmacist and hold a Bachelor of Science in Pharmacy
13 degree at the University of Saskatchewan.

14 THE CHAIRMAN: Does your Association have a
15 Committee on Taxation?

16 MR. TURNBULL: No, sir. No specific Committee
17 on Taxation. We have various committees in the Associa-
18 tion structure, one of which is a Government Liaison
19 Committee with various sub-committees, and we have a
20 Pharmaceutical Economics Committee, and many of these
21 matters, of course, that we bring before you today are,
22 shall we say, related to the business of various committees.
23 They have not been given to any specific committee.

24 THE CHAIRMAN: You believe that your recommenda-
25 tions have the support of your 8,000 members I suppose
26 through the normal operations of your Association?

27 MR. TURNBULL: In our submission I have seen fit
28 to quote resolutions arising from annual meetings of the
29 Association. Those which are quoted are merely the most
30 recent resolutions. I could place before the Commission
if it is so wished copies of resolutions of a similar



1 nature dating back all during my approximate ten years of
2 office with the Association, and prior to that period.

3 THE CHAIRMAN: That is all right. It is well-
4 supported here.

5 COMMISSIONER GRANT: I have some questions.

6 THE CHAIRMAN: Should we take the three points
7 point by point? I think, perhaps, that might be the best
8 way to deal with this. Medical expenses. The Association
9 recommends that all medical expenses be permitted as a
10 deduction from income; not just the excess over 3%. Have
11 you any idea what the cost of such a change in the Act
12 would be?

13 MR. TURNBULL: Regrettably I am afraid that such
14 information would be very difficult to determine, and I
15 presume that only a government agency would have knowledge
16 of this particular effect on the fiscal earnings of the
17 Government.

18 THE CHAIRMAN: We could probably find means of
19 getting that.

20 MR. TURNBULL: I see no way how we could get it
21 outside of government circles.

22 THE CHAIRMAN: Are there any questions on the 3%?

23 COMMISSIONER PERRY: I just wondered whether it
24 was appreciated that the reason for the floor was to
25 restrict those deductions to fairly major medical expendi-
26 tures. As you are probably aware it started out at 4% and
27 was reduced to 3%, but still keeping as the objective the
28 recognition of almost catastrophic illness in a year, and
29 the administrative problem of handling the great many
30 receipts that might be submitted if the floor were removed



1 would be a very serious one and would be contrary to the
2 original purpose.

3 MR. TURNBULL: Well, speaking to that, sir, I
4 think that you recognize in our supplementary remarks that
5 we are inferring that today there seems to be a tremendous
6 move towards looking after the health care needs of the
7 full population. Looking after this under the auspices
8 of a government agency. Whether we agree with this or not
9 is not before this Commission this morning.

10 However, it must be recognized that the Income
11 Tax Act does provide 100% exemption for income tax
12 purposes for charitable donations that we make during the
13 course of the year. This, of course, is done, I suppose,
14 to provide some incentive to persons to make more and more
15 charitable donations. However, on the other hand these are
16 voluntary moves on the part of the individual, and very
17 often his medical expenses are anything but voluntary.

18 I think expressing some words possibly in a
19 social field, that one of our first moves in looking after
20 the people of the country who must incur expenses in
21 keeping good health or in regaining health, would be to
22 relieve completely income tax-wise this burden related to
23 their own personal health care. We believe that this is
24 the first step in any move to bring about an expanded
25 contribution to the individual's personal health care
26 expenditure.

27 COMMISSIONER PERRY: Have you calculated what
28 this might represent in tax savings to a person of modest
29 means?

30 MR. TURNBULL: No, I do not believe that figures



1 of that nature could be possibly calculated outside of
2 government circles.

3 COMMISSIONER PERRY: I am thinking of an indivi-
4 dual case, not in the aggregate.

5 MR. TURNBULL: Except that, of course, there is
6 a blanket \$100 exemption today, and many of us I presume
7 would still remain under that \$100 figure, but many of
8 modest means would undoubtedly go slightly above it.

9 COMMISSIONER BEAUVAIS: It would take about an
10 income of \$3,800, taxable income, to go over the \$100?

11 MR. TURNBULL: Yes.

12 COMMISSIONER BEAUVAIS: Mr. Turnbull, I was
13 thinking of the various hospitalization plans instituted
14 by Governments of various provinces as most of the medical
15 expenses are paid when they are in hospital, are they not?

16 MR. TURNBULL: You mean the hospital expenses
17 under the various provincial hospital schemes?

18 COMMISSIONER BEAUVAIS: Exactly.

19 MR. TURNBULL: This is true, sir, and although
20 these schemes do vary from province to province, however,
21 we still maintain, and I think maybe we are talking in
22 principles again, that the person who is not confined to
23 hospital for his medical care should not have to suffer
24 the consequence of having to pay tax on that portion of
25 his income that he has already paid out.

26 Also I believe that in many instances the
27 medical practitioner would much prefer to have his patient
28 stay out of the hospital so that he can get him back to
29 full health as quickly as possible. I am pretty sure from
30 the experience of some of the hospital commissions today



1 they would prefer to have the patient stay out of the
2 hospital, too, with the cost and occupancy rates.

3 THE CHAIRMAN: In paragraph 5(1) and following
4 you have indicated that generally speaking a mark-up of
5 40% of selling price is applied to the six-and-a-half
6 million dollars, and that mark-up applies to sales tax
7 as it is applied to goods. The mark-up of sales tax
8 would then, I think, according to the figures in 5(2) be
9 four-and-a-half million dollars, and if the sales tax
10 were removed, the four-and-a-half million dollars would
11 be removed, and that profit which now moves to your
12 8,000 members, I think, then, would disappear, and you
13 have said that despite that loss, they still recommend
14 the waiving of the tax.

15 I wonder whether, in fact, the four-and-a-half
16 million dollars would be lost to them, because while your
17 traditional mark-up is no doubt 40%, I presume there are
18 also mark-downs on all merchandise, and I do not suppose
19 that the traditional mark-up would, in any way, be altered
20 because of sales tax. I am not suggesting that, but it
21 crosses my mind that it would be very difficult to take
22 four-and-a-half million dollars out of an industry of
23 this kind and have all your members get by. I rather
24 think the normal forces of competition would operate in
25 such a manner that the industry would not, in fact, lose
26 four-and-a-half million dollars.

27 What are your views on that, Mr. Turnbull?

28 MR. TURNBULL: Well, the effect, of course is
29 two-pronged. The total or gross sale or gross income
30 related to prescription volume would, of course, be



1 reduced, and it would be reduced as we indicate by
2 approximately 8.3%.

3 At the same time, of course, the cost of the
4 tangible ingredients of the prescription would come down.
5 It is very difficult to anticipate what the effect might
6 be on the individual community pharmacy if this tax
7 were to be abandoned tomorrow because we do not know
8 whether, for example, an industry is going to round its
9 figures to a degree - we do not know what other effects
10 might have an influence on this, and also we have no
11 positive statistics on the actual cost figures of all the
2 12 ethical pharmaceutical preparations sold in community
13 pharmacies as opposed to those which are in some instances
14 distributed by practising physicians who see fit to
15 dispense a certain quantity of medication, or distributed
16 by hospitals, by government institutions.

17 However, it is possible to make rough calcula-
18 tions based on existing figures using a tax correction
19 to the point where we are of the opinion if the federal
20 sales tax is removed the average pharmacy would see a
21 decline in his net profit of some \$1,200 per year, all
22 things being equal with today's circumstances.

23 COMMISSIONER BEAUVAIS: That would be equivalent
24 to 40% mark-up on the tax?

25 MR. TURNBULL: Not generally, sir. 40% would
26 have its effect, but we are talking here of a shift in
27 gross income and also a shift in gross cost of goods
28 caused by the elimination of the sales tax which is
29 collected at the manufacturing or distributor level. Now,
30 this is approximately 20% of the net profit of the average



1 retail pharmacy in Canada.

2 THE CHAIRMAN: Then there are not 8,000 pharma-
3 cies? There is about half that; is that correct?

4 MR. TURNBULL: There are 8,000 pharmacists who
5 are members of the Association. There are, let us say,
6 5,000 retail pharmacies in Canada. The 8,000 includes
7 those who are self-employed and those who are employees.
8 It includes academicians and those in government service,
9 armed forces, hospitals.

10 Actually, you see the thing is there would be
11 no decline in the expenses of the pharmacy whatsoever,
12 the overhead. So this has a very serious effect on the
13 individual pharmacy's economy, all things being equal.

14 THE CHAIRMAN: What would the views of your
15 Association be to changing the level at which federal
16 sales tax is applied from the manufacturer's selling price
17 to the wholesaler's or retailer's selling price?

18 MR. TURNBULL: I think very simply it can be
19 stated this was proposed, I believe, by a Royal Commission
20 of several years ago - I stand to be corrected on this -
21 which suggested that possibly the sales tax levy be
22 changed to a lower figure of 8%, and that it be levied
23 at the wholesale or retail level.

24 Of course, the 8% and 10% on these two different
25 levels would be just about the same. I believe this is
26 correct. Secondly, I think that we can speak very frankly
27 and say that the pharmacist today is so burdened down with
28 extra records, accounting and forms to complete, and
29 collections to make here, there and everywhere, that
30 there would be nothing but 100% opposition to such a move.



1 We feel that it would become an impossible
2 situation to make the retailers of Canada collect this
3 tax and remit it to a government source. It would add
4 to the retailing expense very, very much, not only in
5 pharmacy, of course, but in all levels of retail industry.

6 THE CHAIRMAN: They are now doing that for
7 provincial taxes.

8 MR. TURNBULL: Yes.

9 THE CHAIRMAN: In eight out of ten provinces.

10 MR. TURNBULL: They are doing this for provin-
11 cial direct taxation. This shows, in addition to their
12 sales figure, and, of course, they are paid, albeit very,
13 very minutely, but they are paid for collecting this tax
14 and submitting it. However, this is just one more of
15 these records that I have made reference to just a few
16 moments ago.

17 THE CHAIRMAN: Not necessarily. It has been
18 proposed to us that it might be desirable to combine the
19 federal and provincial sales taxes by a uniform method
20 of applying them, and, of course, uniform law. In that
21 event, the sales tax rate at the retail level would
22 possibly be an adequate percent to achieve the total
23 amount which is now taken in at two levels of government.
24 It would seem to me if that were the solution that your
25 retail pharmacist would be put to no more trouble than
26 they are, in fact, put to at the present time. Am I not
27 right?



2/PB/ss 1 MR. TURNBULL: Of course, in general drugs,
2 and in particular prescription drugs or prescription
3 services are exempt from Provincial retail sales tax, so
4 the effect is not as great there for pharmacy as it is in
5 some other retail industries. I think that I have presented
6 our views and these were views we expressed a few years
7 ago when these other proposals were brought forth. I
8 would think too from the collection viewpoint in these
9 that the Government activity is facilitated by collecting
10 from a thousand manufacturers and distributors as opposed
11 to 15 or 30 or 40,000 retail outlets. Of course this does
12 not pertain to our particular move here this morning.

13 THE CHAIRMAN: Do you notice any disparity with
14 respects to the sales tax applying to imported drugs as
15 against locally manufactured drugs?

16 MR. TURNBULL: I believe the application of the
17 sales tax is the same, at the same level. Yes, this is
18 outlined by the interpretation in the Act.

19 THE CHAIRMAN: Any other questions on sales tax?
20 I am skipping Provincial sales tax, because I am assuming
21 you will put it in to them. The third point would be
22 the convention expenses under the Income Tax Act.

23 COMMISSIONER MILNE: I have a question I
24 would like to ask you. In this particular field I notice
25 you limited yourself in the presentation of this brief to
26 the views of your Pharmaceutical Association. You mention
27 that other health services also have brought this to the
28 attention of Government; medicine, dentistry and nursing.
29 I am sure you will appreciate this is the point that has
30 come up to us, this recognition of business expense from



1 other groups. Education is one we have had up to now, and
2 I know we will receive this point on many occasions. I
3 don't think that in your submission you indicated at all
4 that in your view this would just be limited to your own
5 field of service. I wouldn't think that would be so. I
6 was wondering if there was anything you could suggest to
7 the Commission that would be helpful in suggesting a
8 common measure that might apply in determining reasonable
9 and proper expenses. This is an area that I think has
10 been the most common source of trouble in administration.

11 MR. TURNBULL: First, Mrs. Milne, most certainly
12 we do not intend that our presentation on behalf of the
13 Pharmacists of Canada would be limited and made very
14 specific in the Income Tax Act. We understand that over
15 the years representations have been made on behalf of
16 members of many of the other health professions, and
17 certainly the Income Tax Act should not be amended to the
18 advantage of one as opposed to the others.

19 As far as the administrative part of the levy
20 of this, or the exemption from the levy of this tax goes,
21 I regret that I have nothing of a specific nature to
22 suggest here. As we know, the Section of the Act which is
23 11-1-A or, 11-A, I believe it is, says: "Convention
24 expenses, the amount paid by the taxpayer in the year
25 as or on account of expenses incurred by him in attending
26 in connection with a business or profession carried on by
27 him not more than more than two conventions held during
28 the year by a business or professional organization".
29 That is why in our supplementary submission we indicated
30 that we felt it is a matter of interpretation as to who is



1 carrying on a business or profession. Does this not
2 include a professional practitioner, be he employed or
3 self-employed. The Courts have indicated that this
4 pertains only to the self-employed. There are no
5 interpretations on this. Also there is the difficulty of
6 an administrative ruling as to whether the individual
7 did, in fact, pay the expenses on his own behalf or
8 whether they were paid on his behalf by, say, his employer
9 which might be a corporate body or a non-incorporated
10 business concern. However, I don't think this presents
11 any great difficulty, beyond some of the difficulties
12 that the income tax people undoubtedly have in the
13 interpretation and investigation. I don't know whether I
14 have answered your question.

15 COMMISSIONER MILNE: Well, I realize that we
16 have had specific cases contested in the Courts, but I was
17 really thinking it was possible since this is something
18 that your field of service felt strongly about and that
19 you have presented on many occasions on your own behalf and
20 on other health services, I wondered if you felt there was
21 any common measure that could be applied. I realize this
22 is something you are not able to do at the moment.

23 MR. TURNBULL: No. I don't believe it is
24 necessary to establish a common measure other than that
25 measure which is presently applied to those who may take
26 the benefits of this particular exemption. The problem is
27 increasing as more and more pharmacists and other practi-
28 tioners go into hospital services as our hospital service
29 programs are expanding. They are in Government service
30 also, many on a part-time basis. There are the University



1 professors who must pay these things from their own
2 pocket in most instances, Government employees who attend
3 to better themselves and to gain greater knowledge of the
4 profession in which they are practising or of which they
5 are members. This is why the problem is increasing. We
6 are getting away from the old field of self-employment.
7 I think some call it the "great American dream", don't
8 they?

9 COMMISSIONER MILNE: I certainly feel in this
10 particular area there is something to be very seriously
11 thought of in connection with the establishing of the
12 point to whom it should be applied. I do agree there. I
13 am sure that possibly through some other channels we may
14 find there is a way of determining what is reasonable and
15 proper if such a deduction can be made.

16 THE CHAIRMAN: Two of us up here are accountants
17 and I suppose in our profession there is the same problem.
18 I don't think I have ever encountered it so far as
19 accountants are concerned. Perhaps I will. I think that
20 employed chartered accountants attending conventions or
21 courses and so on are most often taken care of by their
22 employers and, of course, in that case there is no problem
23 whatsoever. Wouldn't that be the fair test as to whether
24 or not it is desirable for an employee to attend a
25 convention?

26 MR. TURNBULL: No, I don't believe so, sir.
27 It is one of the tests, yes. However, some of the institu-
28 tions in which pharmacists are now practising, and let us
29 take the hospital, be it a large hospital or a small
30 hospital, have many demands made upon them for people to



1 attend conferences and meetings. I presume that their
2 budget for such purposes are extremely limited and possibly
3 more specific to permit, well, heads of departments and
4 administrators and what have you. At the University level
5 there is the Dean's fund, but only through his benevolence
6 would it be extended to the professors. The budgets, in
7 other words, are small and can only be utilized by very
8 limited numbers of people. Of course, we are very
9 interested in gaining the knowledge of these people through
10 their attendance, and they in turn gaining the knowledge
11 that they gain from the others attending the conventions
12 and refresher course programs, extension course programs.

13 COMMISSIONER PERRY: You have an annual
14 convention of your Association?

15 MR. TURNBULL: Yes. Our convention is a combina-
16 tion of various national associations held concurrently
17 at the time of our convention and possibly is a very good
18 example of what we are talking about. We have an annual
19 meeting of hospital pharmacists, of the Canadian Conference
20 of Pharmaceutical Faculties. There is a combined meeting
21 of what now has become the Canadian Pharmaceutical Research
22 Conference and other organizations of that nature meeting
23 concurrently at the time of our conference.

24 COMMISSIONER PERRY: Do you as an Association
25 conduct courses during the year for pharmacists?

26 MR. TURNBULL: As a national Association, no.
27 This responsibility has been assumed in the main by
28 Provincial licensing bodies which each year hold a series
29 of district extension courses. They attempt to take them
30 as close to the pharmacy practitioners as the possibly can



1 to prevent any extended period away from home and their
2 home practice. That is other than the normal general
3 meeting programs of our convention which have become
4 more and more of a continuing educational nature.

5 THE CHAIRMAN: I think that those are all our
6 questions, Mr. Turnbull. Is there anything else you would
7 like to put to us?

8 MR. TURNBULL: I don't believe there is anything
9 to add, Mr. Chairman, except to express my appreciation
10 on behalf of the Association for this opportunity of
11 appearing before the Taxation Commission.

12 THE CHAIRMAN: Thank you indeed, and our
13 appreciation to you for coming before us with the problems
14 and providing us with your solution to them. We will
15 certainly consider what you have given us most carefully.
16 Is there anything else today, Mr. Secretary?

17 THE SECRETARY: One more item, Mr. Chairman.
18 A brief was received on the 4th of January at the
19 Commission's offices from one Mr. Frank Dorosh of Stoney
20 Creek, Ontario. He has asked me if I will enter this into
21 the record on his behalf, which I will do, as Exhibit 39.

22
23 ---EXHIBIT NO. 39: Brief of Mr. Frank Dorosh.

24
25 THE SECRETARY: There is nothing further today,
26 sir. We reconvene tomorrow at 9:30 with the Diversey
27 Corporation and the Canadian Association.

28 THE CHAIRMAN: I am much obliged. We will
29 stand over until 9:30 tomorrow morning.

30 --- Adjournment.



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TAXATION

Hearing held in Howard Ferguson
Auditorium, Sir Daniel Wilson
Residence of University College,
University of Toronto, Toronto,
Ontario, on Friday, the 3rd day
of May, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES E.S. WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT



ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 3, 1963

TOPICAL INDEX

VOLUME No. 13

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a) <u>INTRODUCTION:</u>		
	Opening remarks of the Chairman	983
(b) <u>Submission: Of</u>		
	<u>The Diversey Corporation (Canada) Limited.</u>	983
22	Excise Tax, Excise Duties	988
46	Sales Tax - Federal	988 / IO18
47	Sales Tax - Provincial, Municipal	997
(c) <u>SPECIFIC DISCUSSIONS:</u>		
	Preamble	983 / 998
	Manufacturers in Canada discriminated against through tariff policy and Sales Tax applications	988
	The Importer and Canadian Manufacturers, equalization of Sales Tax or eliminat- ion thereof, a relief in respect to -	988, 989, 998 / IO07, IO10
	(2) two methods of product distribut- ion and discrimination	
	Present Sales Tax and Excise Taxes are a deterrent to industrial expansion and Capital Investment by Canadian and foreign sources, thereby, forcing establishment elsewhere	989, 990, IO02, IO03
	Government Sales Tax revenue, its application, movement of by Govern- ment administration reflect policies and expediency	990, 991
	Sales Tax being an element of cost reflects in loss Government Revenue through Corporate taxation of taxable profits	991, IO16, IO17
	Loss of Tax revenue to the Government through businesses being kept out of Canada by the mechanics of the Sales Tax	992, 993, IO02, IO03
	A reference to Professor Goffman's study of Sales Tax in relation to personal Income, some computed results in respect to elimination of Sales Tax v/s percentage on personal Income as a substitute	993, 994, IO13, IO14



Toronto, May 3, 1963

Diversey Corporation (Canada) LimitedVolume No. I3

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(c)	<u>SPECIFIC DISCUSSIONS (Continued)</u>	
	Business problems in the administration, collection of the Sales Tax, and the construance thereof, the burden imposed	994 4 997, IOII IOI2, IOI3
	Disadvantages and inequities of the Sales Tax	996, IOI2
	The Sales Tax basis, discount on retail price v/s Canadian selling price manufacturers basis	999, IOO0, IOO2, IOO6, IOI4
	The question of no right of appeal against Sales Tax applications and rulings	IOO0
	Proposed, equalization of wholesaler and manufacturers levels as a fair basis for Sales Tax computation	IOO6
	A reference to " Terms of Gatt" - established prevailing market price in the Country of origin	IOO8
	Sales Tax problems related to Integrated Organizations v/s non-Integrated	IOO8, IOO9, IOI7
	Services of a particular type rendered to industry, the problem of Sales Tax relative thereto	IOO9, IOIO IOI4 4 IOI9
	Closing remarks of the Chairman	IOI9



Toronto, May 3, 1963

iii

Volume No. I3

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(d)	<u>Submission: Of</u>	
	<u>The Canadian Dental Association</u>	I019
34	Personal Income Tax- Deductions	I02I \neq I035
35	Personal Income Tax- Exemptions and allowances	I02I \neq I035
(e)	<u>SPECIFIC DISCUSSIONS:</u>	
	Preamble	I020
	Nature and functions of the Canadian Dental Association	I023, I024
	The position of Post Graduate and graduate education in terms of Capital Gain, expenses classed as such in respect, certain practitioners	I02I, I024 \neq I027, I033.
	Salaried members in fixed occupations v/s practitioners in the profession, differential treatment of expenses incurred in pursuing the profession	I022 \neq I024 I027, I029, I030
	A point of number of Dentists employed by Government Departments classed as employees	I027
	A distinction of Dentists in practice and those employed with reference to refresher courses and attending expenses	I027 \neq I035
	The matter of Convention expenses Tax-wise	I029 \neq I033
	A question of the employee in industry v/s professional man in respect to refresher type courses, the disposition of the expense cost tax-wise	I033, I034
	Closing remarks of the Chairman	I035

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
40	Submission of The Diversey Corporation (Canada) Limited.	983
4I	Submission of The Canadian Dental Association.	I019
42	Brief of Canadian Copper and Brass Development Association	I035



Toronto, Ontario, 983
Friday,
May 3rd, 1963.

A/MR/dpw

1
2 --- On commencing at 9.30 a.m.

3 THE CHAIRMAN: Mr. Secretary, if we are now ready,
4 would you introduce our visitors?

5 THE SECRETARY: Yes, Mr. Chairman, Commissioners;
6 we have with us this morning officers of the Diversey
7 Corporation. Mr. B.M. Kaple is President and associated
8 with him this morning is Mr. G.C. Norrie, Treasurer.

9 Mr. Kaple will speak first, Mr. Chairman, and I
10 would like to enter the brief of the Diversey Corporation
11 into the record as Exhibit No. 40.

12
13 --- EXHIBIT NO. 40: Submission of The Diversey Corporation
14 (Canada) Limited.

15
16 SUBMISSION OF THE DIVERSEY CORPORATION

17 (CANADA) LIMITED

18 Appearances: Mr. B.M. Kaple
19 Mr. G.C. Norrie

20 THE CHAIRMAN: Good morning, Mr. Kaple and Mr.
21 Norrie. Should you wish to amplify what you said to us,
22 we are very glad to hear from you. In all events, I would
23 appreciate, Mr. Kaple, if you would tell us a little bit
24 about your company.

25 We have, of course, read the submission, and are
26 interested in it, and would like to ask questions on it.
27 Would you care to speak, Mr. Kaple?

28 MR. KAPLE: Thank you. Our company is engaged in
29 the manufacture and sale of industrial chemicals. Prior
30 to 1949, while our company was established here in Canada,
we imported all of our products from the United States and



1 maintained just a sales organization from coast to coast
2 across Canada.

3 In 1949 we built our first plant in Port Credit
4 and through the years we have gradually worked up to the
5 place where we now manufacture practically every product
6 which we sell. We are unique, perhaps, in one way, in
7 that we manufacture and sell direct to the consumer. We
8 do not sell through jobbers.

9 The purpose, and the reason for that, is that
10 our chemicals require a great deal of service, to see to
11 it that they are properly used at the right concentration,
12 temperature, time of contact, which is of importance to the
13 end use of the product.

14 Most of our competitors, at that time, at least,
15 sold through a jobbing organization which would handle,
16 along with the chemicals, perhaps many, many other supplies
17 that might be sold to the dairy industry, the beverage
18 industry, the food industry. When I say "food" I mean
19 hotels, restaurants, and so forth.

20 Chemicals largely are used for sanitation
21 purposes and to prevent food spoilage due to bacterial
22 growth. That is our prime function in this particular
23 field which we are in.

24 When we began to manufacture here in Canada,
25 naturally our tax picture changed entirely and it was
26 quite a shock to our Board of Directors when they saw the
27 first financial statement to see the tremendous increase
28 in the amount of tax which we had to pay, once we began to
29 manufacture here in Canada.

30 Now, from here on, I think I will let Mr. Norrie



1 speak to the brief which he has submitted. I believe this
2 gives you a pretty good picture of our company's operation.
3 We have a plant in Montreal. A small one in Newfoundland
4 and one in Alberta, in Calgary.

5 We have close to 100 salesmen on the road
6 servicing primarily the food industry. When I say "food"
7 we sell to breweries, beverage plants, to dairies, the
8 baking industry and hotels, restaurants, institutions and
9 when I say "service" perhaps I should elaborate a little
10 further on that to give you fellows, you gentlemen, an
11 idea of what is involved from the service angle.

12 First of all, most of our products are used in
13 a mechanical machine of some kind. If it's in a brewery,
14 they have large machines for washing their bottles. If it
15 is a dairy, it is used for cleaning equipment. If it is
16 in a restaurant for washing of dishes, it is used in the
17 dishwashing machine.

18 First of all, we check to see if the machine is
19 mechanically and hydraulically in good condition before
20 placing our chemicals in that machine to do a job, because
21 if the pumps are not working properly or if the rinse jets,
22 the lines, are choked with scale, it is impossible to get
23 the results that are desired.

24 Our men will go in and make this check. If they
25 find that the machine is not in good condition, if there
26 is scale in the rinse jets, we will descale that machine.
27 Then we check the temperature to make sure the temperatures
28 are where they should be. So often we find they are
29 too low, first of all, to kill bacteria; secondly, to do a
30 good job of cleaning.



1 Once we are sure that the machine is in good
2 condition, we then go ahead and instruct the operator of
3 the machine the proper amount to put in the machine to
4 initially charge it to the proper degree of alkylinity
5 or toxicity, whichever it is. Secondly, we determine,
6 through tests, throughout the period of operation, the
7 amount that is required per hour, or per half-hour, depen-
8 ding on the size of the operation, how much is required in
9 the way of upkeep to maintain the right degree of alky-
10 linity.

11 In many cases now we have machines which we
12 installed which automatically test and automatically feed
13 from a stock solution tank the proper amount to maintain
14 the proper strength of the solution throughout the entire
15 day's run. Of course, we have to instruct the operator
16 of the machine how to run these tests; how to adjust the
17 mechanical devices or electronic devices for feeding this
18 to the machine, so when I say "service," it does require
19 a great deal of service and especially in the institutional
20 field.

21 So often you go back and find the man you
22 trained last month has been replaced by someone else on
23 the machine, so you start all over again. It is a
24 continuous operation. That is why it does require a great
25 deal of service on the part of our men. Actually, we sell
26 a service; this is what it amounts to. We supplement the
27 product to do the job. That is the sum and substance of
28 the whole thing, so from here on I think I will let Mr.
29 Norrie take over.

30 THE CHAIRMAN: Thank you, Mr. Kaple. Do I



1 understand that you imported prior to 1949? I think you
2 said that.

3 MR. KAPLE: Yes.

4 THE CHAIRMAN: May I assume from that that you were
5 importing from a parent company?

6 MR. KAPLE: Some of our products we imported
7 from the parent company in the United States; others we
8 bought on the open market.

9 THE CHAIRMAN: You are a wholly-owned subsidiary
10 in this country?

11 MR. KAPLE: We are a wholly-owned subsidiary,
12 yes, sir.

13 THE CHAIRMAN: And you compete with the Wood
14 Company; Sanitation for the Nation?

15 MR. KAPLE: In very, very few of our products
16 we would cross lines with G.H. Wood. They are more of a
17 janitorial supply house; hand soaps for dispensers in
18 washrooms and things like that; waxes. Ours are industrial
19 chemicals used primarily for cleaning equipment and sani-
20 tizers for killing bacterial germs which cause food
21 spoilage.

22 THE CHAIRMAN: I think I understand, thank you.

23 MR. KAPLE: Thank you.

24 THE CHAIRMAN: Yes, Mr. Norrie? Don't bother
25 standing unless you wish to do so.

26 MR. NORRIE: Thank you. As Mr. Kaple has indi-
27 cated, our business requires a great deal of service which,
28 in turn, requires a fairly large mark-up between the cost
29 of our product and the final selling price. While we are
30 importing these products, of course, we are paying tax on



1 the duty-paid value which roughly corresponds with our
2 manufacturing cost. But the moment you manufacture some-
3 thing in Canada, you are taxed on your full selling price
4 which indicates a substantial difference. This places us in
5 a poor competitive position, so much so that our directors
6 advised us to find a solution or close up the plant.

7 In fairness to the Department I would say that
8 we approached them; we were allowed a discount to equalize
9 the amount of taxes which we would otherwise pay. It did
10 not equalize dollar for dollar. However, it did raise the
11 question in our mind, why should a manufacturer in Canada
12 be discriminated against this way? We felt that the
13 philosophy of our Government was to discriminate, perhaps
14 unintentionally, but nonetheless discriminate against a
15 manufacturer in Canada.

16 For example, if you say, "I am to export to the
17 United States," you find a lot of stumbling blocks placed
18 in your way. In Canada the reverse seems to hold true.
19 Quite often stumbling blocks are placed in your way the
20 moment you do manufacture something and your importer, of
21 course, is favoured.

22 The Tax Department advised us that we would have
23 to seek tariff relief, but as you know, that is a pretty
24 difficult thing to do in this day and age. Sales tax has
25 increased fairly substantially, as you know. Sales tax
26 increased by 37 $\frac{1}{2}$ %, but there was no corresponding increase
27 in the tariff structure in that time to protect the manu-
28 facturer or to offset the disadvantage which would accrue
29 to a manufacturer through the impact of sales tax.

30 We do not believe that the protection should come



1 from tariffs. We believe, rather, that it should come
2 through either an equalization of sales tax, regardless
3 of how it is distributed, or whether manufacturers or
4 importers - but preferably the most obvious benefit would
5 be derived from eliminating sales tax entirely. We cannot
6 understand why two identical products could bear different
7 amounts of sales tax simply because they happen to be
8 distributed in two different manners, or simply because
9 one happened to be manufactured in Italy or another one
10 manufactured in Canada.

11 If any business is to be discriminated against,
12 certainly we would think the discrimination should be
13 against the importer. We think it should be the importer
14 who should be discriminated against.

15 THE CHAIRMAN: May I interrupt you, Mr. Norrie?
16 We are very much interested in this charge of discrimina-
17 tion and we hope that before you finish you will demonstrate
18 this to us by way of examples. Could you do that?

19 MR. NORRIE: Yes, sir. I will try to, sir. As
20 I say, it is certainly the case in our experience. We
21 have had competitors, Mr. Kaple has had competitors tell
22 him - he asked them when they are going to build in Canada
23 and they told him they have no intention of building in
24 Canada. They are not going to build in Canada.

25 We were told by the Tax Department of one
26 instance of an automobile company in England, the Austin
27 motor cars, that was kept out of this country for that
28 reason. We do not have this as a matter of record. I
29 am sure it must be a matter of record somewhere.

30 It seems to us in this country that we do need



1 our manufacturers and that they should be encouraged or
2 at least we don't think the manufacturers should be
3 discouraged, which seems to be the case, at least in our
4 limited experience.

5 Canada, for example, is competing with other
6 countries for industry. Many of these will make it
7 attractive for you to build there. For example, we put a
8 little plant in Jamaica and we were told down there we
9 have a seven-year tax holiday, but when we look to Canada,
10 all Canada offers you is nothing more than the privilege
11 of paying additional sales tax in order to manufacture
12 here.

13 We realize that federal sales tax provides a
14 substantial source of revenue and that it would be a
15 pretty big consideration to discontinue it. However, we
16 are told that it earns something like \$800,000,000 a year
17 or approximately $3\frac{1}{2}\%$ of the gross personal income. How-
18 ever, we believe that the \$800,000,000 a year would be
19 substantially reduced when you take various factors into
20 account.

21 First of all, we believe that in that
22 \$800,000,000 would be included amount of sales tax which
23 the Government charges against itself. It just simply
24 moves money from one department to another. We have no
25 way of knowing, of course, what this amount would be but
26 it must be fairly substantial.

27 They spend something like \$6 billion in a year
28 and one would estimate that for every one per cent of
29 their purchases which are subject to tax, they would lose
30 about six-and-a-half million dollars in sales tax, or at



1 least it would include about six-and-a-half million
2 dollars. If 10% of their purchases are subject to tax,
3 it would be about \$66,000,000.

4 The second fact we considered is that there is
5 a certain self-cancelling aspect to sales tax. A corpora-
6 tion, for example, when it buys supplies on which there
7 is sales tax, it is, of course, a deductible item for
8 income tax purposes. Naturally, any revenue that the
9 company derives from that particular sale it automatically
10 loses 50 or 52 per cent on incorporation taxes. Now,
11 again, we don't know how much would be involved.

12 In our company, which is not a terribly big
13 company, we pay about \$15,000 a year in taxes on our
14 supplies which means that we lose, or at least the Govern-
15 ment loses, about \$7,500 in income tax. Now, we are collec-
16 ting in total about \$73,000 in sales tax. In other
17 words, they are losing about 10% in income tax on what we
18 collect in total sales tax from our customers. If that
19 could be taken as representative, you would see out of
20 this \$80,000,000 10% would be another \$8,000,000 and we
21 don't know whether it is 10% they lose or 20% or 5% or
22 what it is but we respectfully submit that it might be
23 of interest for your research people to investigate that
24 a little further.

25 The other factor, of course, which reduces the
26 value of sales tax is a matter of the cost of collection.
27 Certainly, the Government has to maintain a fairly large
28 department to collect it. The economy as a whole has to
29 bear the cost of that. Of course, it is businesses who
30 bear, I think, the brunt of the cost of collecting sales



1 tax.

2 The fourth factor which could be considered,
3 which we certainly thought more difficult to establish,
4 is how much tax revenue is lost to the Government by
5 virtue of businesses that have been kept out of this
6 country through the mechanics of sales taxes.

7 Now, we believe that when all these factors are
8 taken into account, the amount of real tax revenue in the
9 hands of the Government would be something less than
10 \$800,000,000. I would be very surprised, from our own
11 limited experience, if this would be - if the real revenue
12 would be anything like 75% of this total.

13

14

15

16 -

17

18

19

20 -

21

22

23

24 -

25

26

27

28 -

29

30



B/ENT/ss 1

2 We are told in Prof. **Goffman's** studies that
3 the sales tax equals about $3\frac{1}{2}\%$ of personal income in
4 Canada. Well, if what we maintain is true that the real
5 revenue from sales tax is something less than eight
6 hundred million, to eliminate sales tax it would require
7 a tax on personal income of something less than $3\frac{1}{2}\%$ to
8 make up the difference. Maybe $2\frac{1}{2}\%$ or 3% . That is, if a
9 man is earning \$3,000.00 a year now, he is paying about
10 \$105.00 in sales tax which he does not see. Perhaps if
11 you put a surcharge on, you would find we could charge
12 him even $2\frac{1}{2}\%$ or \$75.00 of his income. It would be a net
13 saving to him of \$30.00, and what is more important, he
14 would be able to see the type of tax he is paying, which
15 he cannot do now.

16 He is paying this tax out in nickels and dimes
17 and half dollars and he has no earthly idea how much he is
18 spending. We do not think it would be any more unfair to
19 levy this type of tax on personal income as a surcharge
20 to make up what we would lose in sales tax, because this
21 is the type of person who is paying the tax anyway.
22 Apparently according to Prof. **Goffman's** study everybody
23 pays approximately $3\frac{1}{2}\%$; 3.6, 3.7% of his income whether
24 he earns \$1,000.00 or \$6,000.00 or \$7,000.00, so that a
25 surcharge levied at a specific rate against every person
26 against his gross income would be no more unfair than
27 charging him sales tax now. In fact it would probably be
28 a little fairer because, as we said earlier, certain
29 economies would result which would benefit the taxpayer
30 and the economy as a whole.

30 We believe this would certainly be a much simpler



1 method of collecting tax than sales tax. Sales tax, at
2 least in our experience, is an extremely complicated
3 matter. We have all these exemptions to consider. You
4 have to consider licences, rulings, certificates and
5 so on. On practically every order you take somebody has
6 to make some judgment as to whether this order is tax
7 exempt, and some action has to be taken.

8 In our company, for example, we have eighty
9 salesmen and ten order clerks, all of whom at one time in
10 the day become involved with sales tax. The salesman has
11 to solicit the order and apply **for a certificate, if it is**
12 necessary, and the clerks have to follow up with letters
13 to request certificates. This is done in every single
14 order that we take, and I am sure it is the same in most
15 other businesses. The total effort from all these people,
16 these ninety people is \$73,000.00 a year. By comparison
17 we have a single payroll clerk, and through the medium of
18 payroll deductions, she contributes, if you like, \$100,000.00
19 a year, for it seems to me the payroll deduction is a
20 far more efficient method and much less costly than the
21 sales tax.

22 With sales tax you have to be virtually the
23 judge and jury on practically every order, and under the
24 law you are also expected to be a policeman, and if some-
25 thing goes wrong you also have to pay the penalty.

26 I do not think there is any other situation in
27 our law that results in this. You are caught between the
28 customer and the Department. Sometimes a customer does
29 not want to be bothered giving you certificates, yet you
30 can be held technically liable if he does not. If he does



1 give you a certificate which he is not entitled to give,
2 you can also be held liable

3 The Department has I think relatively little
4 to do with the collection of sales tax. Business carries
5 the whole load, paying the whole expense and lives with
6 it on a day to day operation, yet about once every two
7 years the assessor will come in and spend a day or two
8 reviewing it and away he goes again. This seems to be the
9 sum total of their effort.

10 The Act itself is complicated enough, and yet
11 they seem to complicate it even further with a lot of
12 rulings which at least appear complicated on the surface.
13 One of our problems at one time was selling a product,
14 plain milk cans to dairies and we were told if the milk
15 can was owned by a farmer the product would be exempt,
16 and if it was owned by a dairy it would be taxable. You
17 can imagine all these milk cans going into a dairy; how
18 you are supposed to decide which are exempt and which are
19 not, I don't know. We do not believe this is an isolated
20 case.

21 We saw the other day where cake boards are exempt
22 if they are plain, and taxable if they are decorated. I
23 do not even know what a cake board is, but I know there is
24 somebody somewhere who has got to try to handle his
25 business, taking this type of thing into account.

26 At one time gutters on a house were exempt, and
27 downpipes were taxable, and in the lumber business I think
28 they used to have to concern themselves with kitchen
29 cupboards; some were taxable and some were exempt. If they
30 had sinks in them, they were taxable. So you do run into



1 all these apparently absurd rulings which add further to
2 an Act which is extremely complicated to live with. As
3 I say, it is something you do have to live with every
4 day of the year.

5 Income tax, you settle that once a year, and it
6 is relatively simple for most of us who work for wages.
7 There is nothing complicated about it. There is nothing
8 complicated in the machinery for deducting and forwarding
9 this.

10 In the case of corporation tax, of course, there
11 are some complications there. Designated surplus is one
12 of them. You do not run into that but once every several
13 years when you acquire a subsidiary, but this is a
14 complication that you live with every single day and you
15 have to consider on every single order, so you figure every
16 business is faced with what must be the cost to the
17 economy as a whole trying to maintain all this complicated
18 machinery.

19 As I said, in our company which is only a modest
20 size company, we have ninety people who have to
21 concern themselves with it, and every day, when they should
22 be doing other more productive things.

23 As we have mentioned, we think there are
24 certainly inherent disadvantages and inequities which are
25 built into the Federal sales tax. I may say parenthetically
26 we do not believe it is only the Federal sales tax that
27 we have these problems with; we think it is just the nature
28 of the beast. You have many of the same problems with
29 Ontario sales tax. It is a different matter, but I think
30 it points up just again how complicated it is to try to



1 collect tax revenue in this manner.

3
2 In Ontario we were told by Treasurer Allen they
3 had taken all the best features of every Act and incorpora-
4 ted the Ontario Act, for it was supposed to be the best
5 possible sales tax Act they could come up with. Yet we
6 find many of the same problems. You have the customer
7 who doesn't want to give certificates and on every order
8 somebody has to be a judge and jury again. Somebody asked
9 Mr. Clark the comptroller, what he would do if some
10 of the customers would not give a certificate. He said
11 if they don't give a certificate, don't sell them. It
12 does indicate some of the problems you run into.

13 In our view it is an extremely cumbersome and
14 awkward method of collecting tax, and we would respectfully
15 submit we would be further ahead to eliminate it entirely
16 and get rid of all these problems and get the revenue from
17 another source, or at least from the same source, namely
18 the person who is now paying it, but charge him in the
19 form of a surcharge so that he at least can see what he is
20 paying in the way of tax, and at least the administration
21 of it would be certainly simplified to a great extent.

22 There is also the possibility that once he
23 begins to see what he is actually paying in tax out of his
24 own pocket instead of having it hidden from him, he may
25 be a little less inclined to go to the Government asking
26 for many of the services that he now believes he is
27 getting for nothing.

28 This, gentlemen, is our submission in essence,
29 and we hope it may be of some interest to you and possibly
30 some help. Thank you very much.



1 THE CHAIRMAN: Thank you indeed, Mr. Norrie.

2 You have put forward several things which are of interest
3 to us, but I think one I would like to see demonstrated
4 and I suspect the other Commissioners feel the same, is
5 first of all this matter of discrimination in favour of
6 the importer.

7 MR. NORRIE: In our experience, sir, we can
8 bring products in from the United States, and say it
9 might cost, let us say for the sake of argument, \$10.00.
10 This \$10.00 might equal our manufacturing cost. At the
11 border we only pay 11% or \$1.10 tax. If we in turn have
12 to sell that product for \$20.00, we find we are paying
13 \$2.20 tax, a difference of \$1.10. We pay 11% on the full
14 selling price, and the moment we manufacture that product
15 in Canada ---

16 THE CHAIRMAN: But you are entitled to a discount.

17 MR. NORRIE: Oh, yes, that is true, sir. How-
18 ever, it took us some time to get this discount. It took
19 a lot of effort on our part to obtain the discount, and
20 the discount was not designed to entirely bring the two
21 amounts of tax in line. For example, the Department would
22 take into account the amount of freight and that sort of
23 thing. It seems to us if we can build a plant in Canada
24 or anywhere else to effect economies, these economies
25 should either go to the customer or should go to the
26 owner of the business in the form of lower prices or
27 higher profits. Either way, regardless of what happens,
28 the Government gets 50% of what benefit is derived anyway
29 in the form of higher taxes.

30 THE CHAIRMAN: Perhaps I am a little slow, but



1 the law I think intends to collect tax on the price at
2 which the manufacturer sells his goods to the wholesaler
3 or in the case of an integrated company like yours, what
4 that price would have been had it not been an integrated
5 company, and that denotes there must be a discount from
6 your retail selling price in order to arrive at it.

7 Now, the application of the discount to your
8 retail selling price I would have thought brought you back
9 to what would have been the Canadian manufacturer's
10 selling price, and I would have thought the Canadian
11 manufacturer's selling price would have been competitive
12 with the imported cost to a distributor, but that is not
13 so?

14 MR. NORRIE: We did not have any wholesale
15 price to compare it with. We sell direct to our customers.

16 The first discount we were offered was 21%,
17 which was nowhere near enough to offset it. In fact they
79 18 gave us 21% discount and they took away 5% discount that
19 had been allowed previously for freight, so there was a
20 net increase of about 15. We went back and complained
21 about this, and they immediately raised it to 40%. If
22 we were bringing that in from the States we would still
23 be paying 60%.

24 Our argument is why if you are going to bring
25 in a product from the States or from anywhere else, why
26 should one product not contain exactly the same amount of
27 tax as another product. Why should they attempt to do
28 nothing more than to equalize? It is not their right
29 surely to equalize and establish what your costs will be.
30 That is in effect what they are attempting to do.



1 THE CHAIRMAN: I suggested that I thought their
2 task was to endeavour to arrive at what a Canadian
3 manufacturer's selling price would be. Is that not their
4 task under the Act, and if that is the task, surely they
5 are endeavouring to achieve that when they set a discount.
6 The discount may be imperfect.

7 MR. NORRIE: Oh, yes.

8 THE CHAIRMAN: It may be felt they have set
9 the wrong discount.

10 MR. NORRIE: In practice you still pay more tax.

11 MR. KAPLE: We still pay more tax.

12 THE CHAIRMAN: If the tax is improperly set ---

13 MR. NORRIE: What are you going to do? You
14 have no right of appeal. You have no place you can appeal
15 this to.

16 THE CHAIRMAN: I agree.

17 MR. KAPLE: Is the discount legal?

18 THE CHAIRMAN: We have received complaints on
19 that, and of course that is very highly questionable, as
20 you well know. There have been decisions in the courts in
21 both directions on that, and that I think is very sound to
22 complain about.

23 However, what I am particularly interested in
24 is this matter of discrimination in favour of the importer.
25 It seems to me that is built into our Sales Tax Act,
26 it is most important. I do not think it is built into our
27 Sales Tax Act. It seems in your case it may apply because
28 of this imperfection that you speak of, but what I am
29 particularly interested in is whether it applies to all
30 cases.



1 MR. KAPLE: We were down to the Manufacturers'
2 Association one day, and there was a fellow there voicing
3 a complaint that he made electronic organs and television
4 sets, and he used the same tubes in both the electronic
5 organs and the television sets. Because the TV tubes are
6 taxable, and although the organ as a musical instrument
7 should be sold exempt, he cannot get a refund on the tubes
8 he used, but they can bring the same organ in from Italy
9 or France and it is completely free of tax. There is no
10 attempt made on the other hand to tax the tubes in it.

11 COMMISSIONER WALLS: Are you not thinking of the
12 15% excise tax that applies to the tubes?

13 MR. KAPLE: I understood it was sales tax,
14 but regardless of whether it is 15% or 11%, there is one
15 way in which the Act works against it.

16 THE CHAIRMAN: I think I can find more things
17 wrong with the Sales Tax Act than you can, but I think this
18 is a little bit beside the point of my question. I have
19 heard it said many times that there is discrimination
20 against manufacturers in favour of importers, and you are
21 the first one that has come forward and actually laid this
22 down, so we are very interested in just how that works.
23 I am not very clear as to how it works, and as to why that
24 discrimination should exist.

25 MR. NORRIE: It may be more serious with us,
26 because we do require the larger margins that Mr. Kaple
27 indicated to cover the services.

28 MR. KAPLE: We do not charge for the service I
29 mentioned. That is encompassed in the selling price of
30 the material. They are perhaps working on a larger gross



1 margin. This discount that they gave us does not bring
2 our tax in line with what it would be were we buying those
3 products either manufactured by someone else in Canada or
4 importing from the United States. I think that is perhaps
5 the answer to our particular problem.

6 MR. NORRIE: Regarding the discrimination
7 question, as you are well aware, the problem that the
8 automobile manufacturers or at least the tire manufacturers
9 have. Don't they make and distribute their own tires and
10 they account for the tax in the selling price, but if
11 Canadian Tire buys it they only pay tax at the price at
12 which they purchased that tire from Goodyear, so it is
13 giving them an advantage, but the guy who is doing the
14 manufacturing is discriminated against. Whether unintentionally or not, that is how it works out.

16 MR. KAPLE: I was in a meeting down in New York
17 several years ago with one of our largest competitors,
18 and my boss, the chairman of the board, his theory had
19 been "spend your money in Canada where you make it", and
20 that is the reason we have a plant here today or plants in
21 Canada. So at the luncheon on this particular day I
22 thought I would needle this guy a little, this president
23 of a large competitive company, and I said "When are you
24 going to build a plant in Canada and spend your money
25 where you make it?" He said "Why should we be stupid and
26 work for the Government? We can undersell you from a
27 cent and a half to two cents a pound and still make more
28 net profit for the company than manufacturing in Canada."

29 THE CHAIRMAN: Is that under your discount
30 structure?



1 MR. NORRIE: It may not be now.

2 MR. KAPLE: I would say they could undersell us
3 from a half to three-quarters of a cent a pound and still
4 make that much net profit.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



B/dpw 1 Another thing we can't understand, there seems
2 to be a philosophy to discriminate - maybe that is too
3 strong a word - against the manufacturer. Why this
4 should be so we just can't figure out. If you build a
5 plant in Canada or anywhere you do it because you figure
6 there is an economic reason; you can save on freight or
7 duty or labour or what-have-you. You find that maybe,
8 or as we found, a difference in the sales tax would more
9 than offset all these other savings, so the Government
10 came along and established a discount, not to equalize
11 dollar for dollar on tax, but only to reduce the amount
12 of tax, so with the freight savings and other savings we
13 would come out equal.

14 In other words, we are no further ahead.
15 Perhaps we are no worse off, but we are no further ahead.

16 THE CHAIRMAN: Come out equal.

17 MR. NORRIE: Our lay-in costs, taking all these
18 factors into account - we regard sales costs as part of
19 our cost anyway. By the time you figure tax at the
20 border, freight, duty to lay into the plant, and then
21 you figure what you can make it for at the plant and what
22 the difference would be in sales tax - the Department
23 take all of those factors into account without saying,
24 "Well, they are going to pay 50 cents at the border.
25 We will only charge 50 cents to the manufacturer." They
26 say, in fact, "We will take 50 cents and take into account
27 you are saving so much in freight, so much in tariff,
28 and we will establish a new rate of sales tax accordingly
29 which just about makes you equal." What is the incentive
30 to build a plant if all you are going to do is make it



1 equal?

2 THE CHAIRMAN: I would think sales tax should
3 be neutral as between Canadian and imported goods, not
4 providing incentive in one way or the other. It doesn't
5 seem as if sales tax should be used for that purpose.
6 We have tariffs that are used to establish trade policies.
7 If, in fact, it lays more heavily on what we are making
8 in the country that what we import into the country -
9 what I would like to know is whether this is a matter of
10 practice as applied to you or a matter of principle?
11 Surely if the principle is to apply the tax to the manu-
12 facturer's price to the wholesaler on the one hand and
13 the other on the duty-paid value, I would think those
14 two should be about as close to each other as one can
15 establish.

16 It may well be that while that is the ideal basis
17 it is not achieved. I would like to know which, in fact,
18 applies; is it a matter of principle or practice?

19 MR. NORRIE: Well, it seems to us it is there
20 in principle. It is there in philosophy as far as we
21 can see, and certainly it follows it is in practice.

22 THE CHAIRMAN: Do you suggest there should be a
23 different basis in the manufacturer's selling price and
24 the application of the tax or a different basis so far as
25 the imported goods are concerned?

26 MR. NORRIE: Everyone be equal.

27 THE CHAIRMAN: How do you do that?

28 MR. NORRIE: Well, I suppose one way would be,
29 the wholesaler is importing his product and re-selling it
30 to the same people we are selling to when we manufacture.



1 Why isn't it applied on his selling price rather than his
2 purchase price? That would make it a little more equal,
3 nearly equal, carry up scale in his case.

4 THE CHAIRMAN: You mean the level of sales tax
5 change from the manufacturer's level to the wholesale
6 level; is that what I understand?

7 MR. NORRIE: Well, yes, or else bring the whole-
8 saler up to the manufacturer's level so he has to account
9 for tax on the same basis as the manufacturer. Regardless
10 of how it is worked out I think it should all be on the
11 same basis.

12 COMMISSIONER WALLS: Basically, isn't the cause
13 of your dissatisfaction that the discount is inadequate for
14 you to be on an equitable basis?

15 MR. NORRIE: We see the discount only as a stop-
16 gap measure, really. Why should the law be written in
17 such a way, anyway, is what we say?

18 COMMISSIONER GRANT: The fact is, it is, at the
19 moment. To determine whether there is an injustice to
20 your company would you not have to determine as perhaps you

21 already have what part of the price to the
22 consumer forms the service which you render, because I
23 take it that in arriving at their 40% discount, you are
24 not allowed any consideration for your service, which
25 Mr. Kaple stated was an important part of the pricing of
26 the product?

27 MR. NORRIE: Part of the pricing of the product.
28 We weren't allowed for that. Our costs, as far as
29 services are concerned, would be more like 60%, dollar
30 for dollar. On the average it should be a 60% discount.



1 That is just the arithmetic of it.

2 COMMISSIONER WALLS: Could I ask you this:
3 supposing you weren't an integrated organization?

4 MR. NORRIE: Selling to the jobber?

5 COMMISSIONER WALLS: Selling to a jobber.

6 MR. NORRIE: Yes?

7 COMMISSIONER WALLS: Where is the disadvantage
8 as against the imported product? The imported product
9 comes in and they have to pay a sales tax on the price
10 of the product plus the duty landed in. The only
11 difference that has been quoted to us before is that you,
12 as a manufacturer, have to pay for certain sales expenses.

13 MR. NORRIE: Yes.

14 COMMISSIONER WALLS: Now, there seems to be a
15 doubtful argument that I would like to have corrected.
16 If an importer was shipping into Canada would he not
17 have already carried out a sales campaign through the
18 country of origin and that cost goes into his cost so
19 would it not be on a relatively equitable basis?

20 MR. NORRIE: If he is selling in the United
21 States?

22 COMMISSIONER WALLS: If he is selling in the
23 United States and going to ship into Canada.

24 MR. NORRIE: Some sales costs in the United
25 States?

26 COMMISSIONER WALLS: He would absorb his sales
27 costs in the United States.

28 MR. NORRIE: I don't think so. I think the
29 tendency more is to try to charge less in your country
30 of export. That is why we have the anti-dumping laws.



1 In our case our parent company, for example, or whoever
2 we are buying through, would just include their cost of
3 their raw materials plus a relatively small mark-up,
4 which they would be happy to take because they know that
5 they aren't going to have to bear any selling cost or
6 advertising cost or cost of distribution. As you know
7 you work to something like 10 cents on the sales dollar.
8 They are just as happy, presumably, to have the cost of
9 the raw material plus 10¢ rather than 60 cents sales
10 cost plus 10 cents.

11 COMMISSIONER WALLS: Isn't that contrary to
12 the terms of GATT, where the position is they won't go
13 below the prevailing market price in the country of
14 origin? They must include sales and administrative cost
15 in the price that they would cross the border with.

16 MR. NORRIE: They wouldn't sell to us, for
17 example, at the trade price. We have got to sell to a
18 dairy and get \$20 a hundredweight to cover all our
19 expenses, but they certainly wouldn't have anything like
20 that cost when they ship to the border. They just take
21 into account their cost of manufacture.

22 COMMISSIONER WALLS: You are talking about
23 services again, aren't you? I wanted to discuss the
24 thing on a non-integrated basis. I think a lot of your
25 problems are because you are an integrated organization
26 jumping right from manufacture to retail.

27 MR. NORRIE: Yes, but the law specifically
28 forbids you to break up your organization. We had looked
29 into having a sales organization and manufacturing organiza-
30 tion; the one would sell to the other. The law



1 specifically blocks that. This would be a solution to
2 the problem. If we were happy to deal entirely through
3 jobbers who would have control of our product and give
4 up that element of profit that might exist there, and
5 as I say, give up control of our product, we could solve
6 the problem as far as sales tax is concerned.

2 7 There are a lot more problems than sales tax
8 alone. This is just a nuisance item. It is one of the
9 biggest headaches we have, but it certainly is not the
10 most important consideration.

11 COMMISSIONER GRANT: I think you have made it
12 very clear that a very important feature of your product
13 is that it is properly used.

14 MR. NORRIE: That is correct.

15 COMMISSIONER GRANT: Therefore, you would prefer
16 not to work through a jobber because you can't be assured
17 that he would give the service which you can give
18 directly?

19 MR. NORRIE: Oh, no, that will never happen in
20 Canada.

21 THE CHAIRMAN: Mr. Wallis is merely trying to
22 resolve the situation by suggesting that you wouldn't
23 have had as serious a problem if you were that kind of
24 venture. He is not saying you should become one nor
25 that it is possible to do that.

26 MR. KAPLE: There is one product which requires
27 - I mentioned descaling. If we go in a large plant like
28 a brewery, a large dairy machine, you would have to take
29 several days to remove this scale. For us it is a night
30 job; you go in after they are through with their process



1 for the day and start maybe at 5 o'clock and work until
2 7 or 8 the next morning, maybe scaling the machine,
3 cleaning and recharging. That particular product, because
4 of this sales tax, we have got outside of our plant. We
5 can make it very easily, but we can buy it made for us,
6 pay tax on our purchase price from the manufacturer and
7 save money, so we farm that out.

8 COMMISSIONER WALLS: There is another problem
9 that is facing you in particular because of the type of
10 product you are in. You have both taxable products and
11 non-taxable products and this would complicate your
12 particular situation.

13 MR. KAPLE: That is a big headache. For
14 instance, if we sell to a dairy and he buys a barrel
15 of detergent to clean and sanitize his equipment in the
16 back of the plant -if he operates an ice-cream or lunch
17 room in the front end of his store, any cleaners that
18 he takes from the back to the front to clean dishes and
19 glasses, he should pay a sales tax on that. The onus is
20 on us to police the thing.

21 COMMISSIONER WALLS: Maybe the answer would be
22 to eliminate some of the exemptions, many of the exemp-
23 tions that are under this Act.

24 MR. KAPLE: That is what we suggest. When they
25 came out with the farmers' cans and plant cans, I went
26 down to Ottawa and I asked the gentleman, "Have you ever
27 seen a can being washed in a dairy plant?" He had no
28 idea how it was done. He said, "What do you suggest?"
29 I said, "Making them all taxable or all tax exempt.
30 It has got to be one way or the other." They made them



1 all taxable.

2 COMMISSIONER WALLS: One of the criticisms you
3 gave of the tax, you said on page 3: "The other factor
4 which serves to reduce the effectiveness of sales tax
5 is, of course, the cost of its collection." That would
6 appear to me not a good surmise because in sales tax,
7 as you mentioned earlier, the collection is done by the
8 manufacturer himself. It is limited to a comparatively
9 small number of collection areas in relation to other
10 taxes.

11 MR. NORRIE: Yes.

12 COMMISSIONER WALLS: While I haven't the
13 figures in front of me of the cost of collection of sales
14 tax I would assume that it is perhaps the cheapest form
15 of tax collection that we have.

16 MR. NORRIE: I would strongly question that,
17 sir. As I mentioned, we collect \$73,000 a year which we
18 turn over to the Government, and every one of 90 of our
19 employees are involved to some extent with it. We have
20 one single payroll girl and she takes it off payroll and
21 turns over \$100,000. This is my idea of cheapness and
22 efficiency; no headaches, no problems whatsoever. She
23 has a table. She simply subtracts the amount of money
24 from the pay cheque and sends it in. She gets a "T"
25 form at the beginning of the year showing the exemptions.

26 With this other, you are working on virtually
27 every single order. You are judge, jury, policeman.
28 You have to pay the penalty if you go wrong. I don't
29 think we are an isolated case. I would say from the
30 Government point of view it is very cheap. All they do



1 is send an auditor in every two years. It is nothing to
2 them. They walk out and leave you with the headaches
3 and the problems.

4 COMMISSIONER WALLS: I was rather surprised,
5 on page 5, where you say: "We believe that there is
6 something basically wrong, if not immoral, about this
7 type of indirect tax."

8 MR. NORRIE: Yes.

9 COMMISSIONER WALLS: "With this type of tax
10 it is virtually impossible for the consumer to know how
11 much tax he is paying when he buys a product." Would
12 the answer to your problem, and the answer to the
13 consumer knowing what he pays, not be to move sales
14 tax forward to the retail level?

15 MR. NORRIE: This, I understand, has been
16 suggested by one or two other associations. It seems to
17 me there are two things wrong with that. First of all,
18 you are still going to have a lot of the problems you
19 have now. For example, they exist with the Ontario
20 sales tax. The second thing would be, as I understand,
21 it was suggested a system of farming out taxes, combine
22 provincial and federal tax, and they do it at the retail
23 level. You are back to the problem of having the Govern-
24 ment getting money, the collection of which they are not
25 responsible for.

26 COMMISSIONER WALLS: It has worked highly
27 successfully with regard to income tax to the extent that
28 some provincial governments didn't want to give it up.

29 MR. NORRIE: I still suspect that might be
30 one of the factors contributing to the growth of



1 government.

2 COMMISSIONER PERRY: One minor point: I think
3 we should point out to Mr. Norrie, as he perhaps knows,
4 that the personal income of which sales tax is $3\frac{1}{2}\%$ is not
5 all income subject to income tax.

6 MR. NORRIE: I understand that.

7 COMMISSIONER PERRY: That is not taxable income.
8 ~~It~~ would be involved would be bringing in several hundred
9 thousand, or perhaps several million people who are not
10 now within the direct tax system.

11 MR. NORRIE: Yes.

12 COMMISSIONER PERRY: So that there would be a
13 considerable cost involved in collecting from people
14 who are not now under withholding or...

15 MR. NORRIE: That is true, sir, but, of course,
16 it works like any other business. In processing tax
17 forms or processing anything else, as long as you have
18 the machinery set up to get a thousand units it doesn't
19 cost you twice as much to carry two thousand units.

20 COMMISSIONER PERRY: They have the machinery
21 set up to catch people who are in regular employment,
22 but beyond that it would become practically a door-to-door
23 canvass every week.

24 MR. NORRIE: There would be a lot of administra-
25 tive details, I am sure. It seems to us it would be a
26 lot simpler than doing it on every single order you have.

27 COMMISSIONER PERRY: Perhaps what is more rele-
28 vant to consider is the increase in personal income tax
29 that would be required to collect this amount of money.

30 It is rather staggering. It would be



1 something like a 50% increase in rates of tax to collect
2 the \$800,000,000. To superimpose this on our present
3 income tax would represent quite a substantial increase
4 in rates. However, these are just observations.

5 MR. NORRIE: We have been taking possibly too
6 simple a look at it; however, if you simply put the 3½%,
7 take the 3½% off the top of the man's income, he knows
8 what he is paying, for one thing, and certainly he pays
9 that once a month or once a week, which seems to us to
10 be obviously a lot simpler than having him pay little
11 dribs and drabs here and there on everything he orders.
12 Every time he orders something somebody has to account
13 for it, do the bookkeeping and everything else.

14 COMMISSIONER PERRY: That is true but as I
15 was saying this is the system for getting at people
16 with sales tax who are not under the income tax at the
17 present time.

18 COMMISSIONER GRANT: May I direct one question
19 to Mr. Norrie? It has to do with your own particular
20 problem rather than the general application of the sales
21 tax. I am interested in the fact that you are dissatis-
22 fied with the 40% discount which you are allowed. If
23 service was not such an important phase of your problem,
24 and if you did not build the cost of service into your
25 product do you anticipate that it would make it easier
26 for you to arrive at what you would consider a more
27 equitable discount?

28 MR. KAPLE: I would say it would. We were
29 asked this particular question down in Ottawa when we
30 were trying to determine how much service, what part of



ANGUS. STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

1015

1 our costs would be allocated to service; travel, commis-
2 sions, deliveries of product, and so forth. It is a very
3 difficult thing to pick a figure that you say your service
4 costs you.

5

6

7

8

-

9

10

11

12

-

13

14

15

16

-

17

18

19

20

-

21

22

23

24

-

25

26

27

28

-

29

30



0/MR/ss 1 COMMISSIONER GRANT: Suffice it to say that
2 that is a point where you are at variance with the
3 Department?

4 MR. KAPLE: That is right.

5 THE CHAIRMAN: I have one small matter which I
6 don't think should be permitted to go by. You have indicated
7 that you turned over something like \$15,000.00 in sales
8 tax and the Government loses \$7,500.00 in income tax
9 because of that.

10 MR. NORRIE: That is correct, sir.

11 THE CHAIRMAN: It would seem to me that sales
12 tax is intended to be passed on to the consumer. If it
13 is passed on to the consumer, it makes no difference from
14 the income tax point of view, because your sales vary by
15 whether or not there is sales tax. If sales tax were
16 eliminated, they would not have, by their elimination,
17 increased the profits of your company.

18 MR. NORRIE: This \$15,000.00 I referred to is
19 not tax on products that we sell, but tax that is buried
20 in the cost of products we buy, automobile, sales supply
21 items. If there is no sales tax, presumably those
22 products would be \$15,000.00 cheaper to us.

23 THE CHAIRMAN: Thank you.

24 MR. NORRIE: The profit would be \$15,000.00
25 higher and we would pay \$7,500.00 more in income tax.

26 THE CHAIRMAN: Thank you. I understand it affects
27 the profits which are consumed by people in business.

28 MR. NORRIE: That is right. Like any other item
29 of expense.

30 THE CHAIRMAN: It does not apply to every item of



1 expense. There are an awful lot of things bought by
2 consumers which are absorbed in the normal cost of living,
3 so to that extent it does not affect income tax.

4 MR. NORRIE: I understand. As I indicated, in
5 our small case we would estimate what the Government loses
6 in income tax is equal to about 10% of what we collect
7 from our customers.

8 If the same ratio were applied over the whole
9 eight hundred million, or eight hundred billion, it would
10 represent quite an item.

11 THE CHAIRMAN: I understand.

12 MR. NORRIE: Maybe 20% overall, maybe 5%. I don't
13 know.

14 COMMISSIONER WALLS: The equipment you use in
15 the production of your products is tax-free?

16 MR. NORRIE: Yes. But automobiles for salesmen,
17 we buy about 26 a year.

18 COMMISSIONER MILNE: I have one question I
19 thought perhaps Mr. Kaple might clear up for me. I want to
20 be sure I have it correctly. When you were speaking about
21 your discussion with your competitors and you mentioned,
22 I think, they could undersell you for something like
23 three-quarter cents per pound and still have as great a
24 net profit, that is after the reduction by discount. Do
25 your competitors provide the type of service that you do?

26 MR. KAPLE: Not to the full extent that we do.

27 COMMISSIONER MILNE: I just wondered if this was
28 the service element involved.

29 MR. KAPLE: That could be very easily checked,
30 I think, if you just call on the customers to whom we sell,



1 and I think it is one of the reasons why we have enjoyed
2 the business and hold the volume of business that we do
3 here in Canada, because of the service.

4 If you are operating a large kitchen and you
5 can completely forget about the sanitation end of the
6 dishes and silver, and so forth, if we are privileged to
7 sell to you, we would take complete responsibility and see
8 to it that all the help that has anything to do with that
9 particular machine was completely versed on a proper
10 maintenance course and operation of that machine. We have
11 a film which we take in which shows the operator, anyone
12 who is dealing with food, all the steps and the precautions
13 that should be taken to properly prepare that. We have a
14 film for the milk producers on the farm. It is said that
15 milk from a healthy cow, from a healthy animal is
16 practically free from bacteria. 85 to 90% of the bacteria
17 that enters that product comes from unclean utensils
18 starting right at the farm.

19 If it is seeded with bacteria, due to purely
20 unclean utensils at the farm, by the time it reaches
21 the dairy plant very little can be done other than to stop
22 the growth of that bacteria by pasteurization at the plant,
23 so we attempt to go to the farm and help the farmer; show
24 the people the proper methods of cleaning and sterilizing
25 the milk utensils that come in contact with the milk
26 before it reaches the dairy plant, and I feel that this is
27 a public service and something that should be encouraged.

28 You should encourage these farmers to use ---
29 the tendency is to skimp on the amount of chlorine, and
30 to skimp on the amount of detergent used. We should



1 encourage them as much as possible to use the proper
2 amount by getting it into their hands as cheaply as
3 possible, because it certainly improves the quality of
4 the food that eventually reaches the table.

5 THE CHAIRMAN: Thank you very much indeed, Mr.
6 Kaple, Mr. Norrie, for coming here this morning. You have
7 made your point very clear to us, and I think we understand
8 the application of sales tax better because of your
9 visit to us. Thank you very much indeed for your time
10 and trouble.

11
12 ---Short recess.

13
14 ---Following short recess.

15
16 THE CHAIRMAN: Mr. Secretary, would you introduce
17 our visitors?

18 THE SECRETARY: Mr. Chairman, this morning we
19 have with us officers of the Canadian Dental Association.
20 Dr. M.V.J. Keenan, President, is with us. He will speak
21 first and introduce the other officers with him.

22 I would like to enter the brief of this
23 Association into the record as Exhibit No. 41.

24
25 ---EXHIBIT NO. 41: Submission of the Canadian
26 Dental Association.

27
28 THE CHAIRMAN: Thank you, Mr. Secretary. Dr.
29 Keenan, would you be so kind as to introduce your
30 associates?



DR. KEENAN: Mr. Chairman, Members of the Commission, I am Dr. Vincent Keenan of Sudbury, Ontario, President of the Canadian Dental Association. I have with me Mrs. Isabel Brown, the Director of Economic Research of our National Association. Dr. William MacIntosh who is in charge of the Committee who wrote this brief and I have Dr. Don W. Gullett, the Secretary of the Canadian Dental Association with me today. Dr. Gullett will lead the discussion on our behalf.

THE CHAIRMAN: Thank you, Dr. Keenan. This is a very well prepared brief indeed. I found it most interesting and I am sure my associates did also. We have some questions to put to you. Before we do so, we would ask if there is anything you would like to say in amplification or modification, or otherwise. You don't need to read it to us, because we have, of course, read it ourselves. Dr. Gullett, would you care to say anything? Don't get up unless you wish to do so.

SUBMISSION OF

THE CANADIAN DENTAL ASSOCIATION

Appearances:

Dr. M.V.J. Keenan	-President
Mrs. Isabel Brown	-Director of Economic Research
Dr. William MacIntosh	-Chairman, Brief Committee
Dr. D.W. Gullett	-Secretary

DR. GULLETT: Mr. Chairman, as you have observed, there are just two points that we have presented in our brief. The first point has to do with what we consider a



1 matter of great importance. One of our chief objectives
2 as an organization is to keep our members up to date with
3 the developments which are taking place in the scientific
4 world and in the health science today. This is a critical
5 problem with us.

6 We do everything possible to induce our men to
7 take what we have called refresher courses. We are
8 referring to something different here than post-graduate
9 education, or graduate education. We understand and have
10 discussed this on many occasions with taxation officials
11 under the terms of the Income Tax Act as it exists in
12 Canada. We understand the position of graduate education
13 in terms of capital gain. We have not said anything about
14 that in our presentation.

15 The refresher courses, on the other hand, are
16 short courses of perhaps five to ten days' duration. This
17 has from the side of economics become rather critical with
18 us, because the overhead cost of operating a practice
19 today has climbed to a very high level. When a dentist
20 leaves his office, there is no income and his expenses
21 go on much the same as if he were in the office.

22 This handicaps him greatly in taking short
23 courses, or refresher courses which we consider so essen-
24 tial and we are bold enough to say that we think that this
25 is in the public interest that he should keep up to date.

26 If these expenses, for taking these courses,
27 were to be an allowable deduction, it would be a considerable
28 help in encouraging men to take these courses.

29 These are intensive courses in some particular
30 subject. So much for the first point.



1 The second point is in respect to salaried
2 personnel. We have had over the last 20, 25 years, an
3 increasing number of our members who are on salary. Around
4 1940, when I first came in office, I could have put on
5 one hand the number of salaried members of our profession.
6 I am speaking of full-time salaried members in the whole
7 of Canada. Today we have somewhere in the neighbourhood
8 of four to five hundred members of our profession who are
9 on full-time salary. We have in Canada 6,000 dentists,
10 so you see that this is, percentage-wise, a rather high
11 percentage, or quite a change in a few years. This is a
12 matter which we have discussed at some length with
13 taxation officials, and of course they point out to us the
14 rules which we know so well: No deductions from salary
15 and the second one is that if the employer deems it
16 important that the individual attend a course, or some
17 instruction, then the employer pays.

18 That is a nice theoretical ruling, as far as we
19 are concerned, but it so happens that the employer, in our
20 case, is the same one that is making the rules. An
21 extremely high percentage of our salaried individuals are
22 employed by the Government. The Government does not see
23 fit to implement their own rule as an employer. That is
24 the crux of our case.

25 We feel badly about this, because our men are
26 part of the health service and we feel distinctly that
27 these men should have opportunities to improve themselves
28 just the same as the man who is in private practice and
29 that is not the case today.

30 THE CHAIRMAN: Do you wish to continue on your



1 second point?

2 DR. GULLETT: Those are the two points. The
3 first point has to do with refresher courses for the whole
4 profession. The second point, Mr. Chairman, has to do
5 with salaried personnel.

6 THE CHAIRMAN: I thought you came to the matter
7 of conventions or conferences?

8 DR. GULLETT: For salaried personnel, yes. Other
9 members of the profession at the present time do have a
10 regulation permitting them to attend two conventions in
11 one year and deduct the expenses for doing so.

12 THE CHAIRMAN: Quite so.

13 DR. GULLETT: You are quite right. We think
14 that the salaried personnel should be treated the same as
15 the man in individual practice.

16 THE CHAIRMAN: Thank you very much. Now, before
17 we address any questions to you, could you tell me a little
18 bit as to how you are organized? You have an appropriate
19 Committee to deal with legislative matters, or taxation
20 matters. I was not clear which it was.

21 DR. GULLETT: We have a Bureau of Economic
22 Research of which Mrs. Brown is the Director. We also have
23 a Committee, known as a Committee on Dental Service and
24 Economics. Mrs. Brown as Director of the Bureau works
25 with this Committee on such matters as we are presenting
26 here today.

27 THE CHAIRMAN: I suppose the recommendations from
28 this Committee go up to your Executive Committee or your
29 Board?

30 DR. GULLETT: Yes. This brief has been approved



1 by our Executive Council.

2 COMMISSIONER BEAUVAIS: I just have one question,
3 sir. When you say expenditures for this type of education
4 in the past has been considered as capital even for
5 refresher courses, you mean that travelling expenses and
6 other similar expenses are not allowed in the case of
7 the self-employed?

8 DR. GULLETT: No. We have the regulation for
9 attendance at conventions, but we do not have any regula-
10 tion covering refresher courses, such as I speak of. Most
11 of these courses are five-day intensive courses and they
12 are given under the jurisdiction or auspices of the
13 University.

14 You might be interested, the fee usually runs
15 for a four or five-day course about \$100.00; the University
16 fee for taking these intensive courses.

17 COMMISSIONER BEAUVAIS: I am just talking about
18 travelling expenses and the hotel expenses. They are not
19 allowed?

20 DR. GULLETT: Not at the present time.

21 COMMISSIONER PERRY: Would that \$100.00 include
22 any housing during the time they are taking the course?

23 DR. GULLETT: It is the University fee.

24 COMMISSIONER PERRY: Sometimes they put you up
25 in a residence for \$2.00 a night or something. They some-
26 times throw that in with the fee.

27 DR. GULLETT: It is getting a little difficult
28 to find housing at \$2.00 anymore, but it is quite true that
29 at some Universities, particularly if it is holiday period
30 that they sometimes make arrangements for men taking these



1 courses to occupy residences.

2 COMMISSIONER WALLS: With reference to the
3 high percentage of salaried dentists, this was quite
4 informational, as far as I was concerned. Most firms pay
5 the expenses of the salaried specialists, if they deem
6 that it will improve the calibre of his work by going to
7 a convention.

8 DR. GULLETT: That is right.

9 COMMISSIONER WALLS: You state that as far as
10 dentists employed by the Government are concerned this is
11 not the case?

12 DR. GULLETT: That is very exceptional.

13 COMMISSIONER WALLS: Because it is the practice
14 in other branches of technical services of the Government.
15 Is that not perhaps a matter for you to negotiate with the
16 Government department concerned, which I presume is the
17 Department of Health?

18 DR. GULLETT: We have been trying to do that for
19 quite a while.

20 COMMISSIONER WALLS: Now, in regard to the five-
21 day courses, refresher courses, do you not think if a
22 practising dentist takes a five-day refresher
23 course, he does it for probably two
24 reasons: Either to improve his earning ability or to
25 maintain it? In other words, to keep up to date and assure
26 the type of income he expects from his occupation.

27 DR. GULLETT: I would like to say from our
28 attitude, and I believe the attitude of the vast majority
29 of our men, he takes the refresher course to improve his
30 ability. Now, I could not argue there would be no financial



1 gain come out of this if we were asking for long graduate
2 courses, because everyone knows that the specialist
3 receives a higher fee than the man in ordinary practice,
4 but in the case of the refresher course, this does not
5 hold true.

6 This does not mean because a man takes a
7 refresher course that he is going to get a higher fee for
8 some particular operation. This is a fundamental thing
9 because purely on a voluntary basis we are looking for
10 ways of encouraging our men to take such courses. There are
11 plans in which, in theory, you would make it a condition
12 that a man within a five-year period, at least, take two
13 or three refresher courses in order to keep himself up.



E/EMT/dpw1

1 The most regrettable thing that we have in the
2 health professions which some way we think is rather bad
3 is to see a man who knows the most the day he graduates
4 and from that day forward in his practice he goes down-
5 hill. That is the man that we try to reverse the process
6 and lift him up.

7 COMMISSIONER WALLS: I notice out of the 6,000
8 you only had 121 who took this course. Do you think by
9 this tax concession that number would be greatly increased?

10 DR. GULLETT: If attendance at the convention
11 is any sign, my answer is emphatically yes.

12 COMMISSIONER BEAUVAIS: Of the number of
13 dentists, what percentage do you think are employed by
14 the Government?

15 DR. GULLETT: A greater number of them are
16 employed by the Department of National Defence. The next
17 is the Department of Veterans' Affairs, Department of
18 National Health and Welfare. The exact number employed
19 by the Federal Government at the moment is 226, and then,
20 of course, we have men employed by provincial governments
21 or municipal governments.

22 THE CHAIRMAN: My understanding is you are primarily
23 addressing yourselves to the distinction between dentists
24 in practice and dentists employed which you consider to
25 be quite unfair. Should there be permission granted in
26 the Act to deduct expenses of your refresher courses,
27 would you think it a reasonably easy matter to define
28 refresher courses and restrict the law?

29 DR. GULLETT: Yes. There are two points, Mr.
30 Chairman, in connection with this. One is the length of



1 the course. The other is under what auspices the course
2 is held. The length of the course, we would judge -
3 dentists are busy men and they like intensive short
4 courses in a particular subject, and most of these
5 courses are five days. Ten days, I think, would be the
6 maximum.

7 The auspices, we certainly do not want a fly-
8 by-night course where the instruction is the kind that
9 in our opinion is not good, so that we would be very
10 glad to have it restricted to be under recognized univer-
11 sity auspices.

12 These restrictions, in my opinion, at least,
13 would guard the privilege sufficiently.

14 THE CHAIRMAN: Would you restrict it so far as
15 the individual is concerned to one course, say, every
16 two years or is such a restriction unnecessary?

17 DR. GULLETT: We would like to see every dentist
18 have the privilege of taking such a course once a year.
19 As it would work out, I would think perhaps you would
20 find most taking such a course every other year, but we
21 would hate to handicap the man who was desirous of
22 improving himself.

23 COMMISSIONER WALLS: You would not deliberately
24 restrict these meetings to the wintertime in Florida?

25 DR. GULLETT: This is beside the point. It would
26 not be for lack of inducement for us to do such things
27 because I have just had the Secretary of the Chamber of
28 Commerce in Tampa and two or three other places trying
29 to get us to hold such meetings there.

30 THE CHAIRMAN: This is perhaps a little off



1 your brief, but what is the tax practice with regard to
2 deducting your convention expenses as pertaining to your
3 profession?

4 DR. GULLETT: Our members, excepting those on
5 salary, the practising member is permitted to deduct
6 reasonable expenses, and I cannot define this word
7 "reasonable." It is the tax people who define that.
8 Reasonable expenses for transportation, for housing accommo-
9 dation, for registration fees in attending conventions.
10 Two in any one year.

11 COMMISSIONER BEAUVAIS: Are they mostly held
12 in Canada?

13 DR. GULLETT: This is worldwide. Last year at
14 the international meeting held in Ceylon something like
15 256 Canadian dentists were in attendance.

16 THE CHAIRMAN: You are not recommending that
17 employed dentists should have the same privilege of
18 deducting expenses of conventions, as I understand it.

19 DR. GULLETT: Yes, because I think our strongest
20 point is that it is not some business firm that is
21 engaging our men. It is Government. It is quite true
22 there is the odd man who is allowed to do this, and
23 usually and probably the director of a certain service
24 or something of that kind. We think it is just as impor-
25 tant and probably more important for the man lower down
26 on the echelon who is actually the man who is practising,
27 and he does not get it.

28 THE CHAIRMAN: I asked you whether you thought
29 the employed dentist should be entitled to deduct his
30 expenses in attending one or two conventions annually.



1 DR. GULLETT: Yes.

2 THE CHAIRMAN: And I think you are replying in
3 the affirmative; is that right?

4 DR. GULLETT: Yes.

5 THE CHAIRMAN: It does not form part of what
6 you submitted to us.

7 DR. GULLETT: Yes. The bottom of page 6, I
8 think. Item 15.

9 THE CHAIRMAN: You are quite right, I am sorry.

10 COMMISSIONER PERRY: I would like to comment
11 that this is our problem rather than yours, but I am
12 very much impressed with the fact that there are very
13 few sharp dividing lines in this area. There are many
14 employed people who, in effect, would welcome the chance
15 of taking a refresher course but who, as a substitute,
16 have to do a good deal of reading in their evenings in
17 keeping themselves current in their occupation.

18 There are a good many industries, and I come
19 from one myself, where there are courses being provided
20 for employees which must be taken at the employee's
21 expense, which do bear on his advancement within that
22 industry. There is, therefore, a whole class of expense
23 here incurred by employed people, and it is rather diffi-
24 cult to see how once you take hold of any part of this
25 complex, there is any place you can stop. As I say,
26 this is our problem, not yours, but would you have any
27 observation to make on that general comment?

28 DR. GULLETT: Mr. Perry, I recognize the
29 problem because we have been told the same thing that
30 you have said to us by the Ottawa authorities on many



1 occasions. We think the only plea we have is wherein our
2 group differs from the larger group that you speak of,
3 and we cannot or are not capable of being able to convert
4 these ideas into the science of taxation. We are not
5 capable in that field.

6 COMMISSIONER PERRY: You would say in your
7 case there is perhaps a more direct relationship between
8 taking this refresher course and the performance of your
9 duty? That is just one test.

10 DR. GULLETT: We think so. We think emphatically
11 so that there is a big difference here. If we are going
12 to continue, and we take some credit although sometimes
13 some things are said today where we do not get much
14 credit, in providing services that are good services
15 for the public, then we have to get whatever assistance
16 we can to prove this.

17 We are convinced on the point of the refresher
18 courses that if we can get the same concession that is
19 now prevalent with conventions, that our percentage of
20 men taking refresher courses would go up.

2 21 Perhaps there is some psychology in this thing.
22 Here is something that the Government gives an allowance
23 for. I do not go along with that idea at all, but if
24 it accomplishes the end result, I think it is good.

25 COMMISSIONER PERRY: Any such comment that you
26 and other witnesses can produce which will help the
27 Commission to establish some guide lines here will be
28 most helpful. I am afraid if you stand back from this
29 problem and look at it, it is pretty amorphous; very
30 few demarcations in it at all.



1 COMMISSIONER GRANT: I would like to know, Dr.
2 Gullett, as to whether or not you lay any emphasis upon
3 the clinic, the demonstration, the technique that is
4 available in your refresher courses which would not be
5 available to, say, another profession or would not be
6 as essential to another profession where the demonstra-
7 tion is not as important an element in the educational
8 feature.

9 DR. GULLETT: Well, of course, it would be
10 rather natural for me to say I think it is most important
11 in the dental profession and the medical profession.
12 When you get further out, I am not in a position to judge.

13 I noted in the newspaper this morning that the
14 Pharmaceutical Association yesterday presented one of
15 these ideas about trying to carry on the education of
16 their graduates to a further stage. I suspect they are
17 founded and based somewhat on our own idea.

18 I do not wish to make a comparison of which is
19 the most important. I do not think that would be quite
20 fair, but I do know that we could do nothing to elevate
21 the man in general practice quite so much as to find
22 some encouragement for him to take these refresher
23 courses. He has the ends today that the average man
24 does, but when he begins thinking about what this is
25 going to cost him; it is going to cost him for the time
26 he is out of the office, it is going to cost him the
27 expense of taking a refresher course, and it is going
28 to add up to quite a tidy sum, and again getting back to
29 the point, from the moment he leaves his office until he
30 returns he has no income.



1 COMMISSIONER BEAUVAIS: Of course, you must
2 remember if he pays income tax at the rate of 30%, then
3 he will have to pay out of his own pocket 70%.

4 DR. GULLETT: We think that is equitable and
5 fair because the man - suppose he is in the 40% bracket,
6 he is more able than the man who is in the 30% bracket,
7 isn't he? We see nothing wrong with that.

8 THE CHAIRMAN: I think we are all most sympa-
9 thetic to you. We find ourselves in your good hands
10 very often, and we would like to know that you are up
11 to date. What we can do for you is, of course, pretty
12 uncertain at this time. I think we have no more questions.
13 Have you anything further you would like to put to us?

14 DR. MacINTOSH: I would like to add my comment
15 to a couple of points that have been made, and one of
16 them Mr. Perry raised about a possible difference between
17 an employee in industry being allowed to improve himself
18 through refresher-type courses and the professional man
19 working for an employer wanting to do the same thing.

20 I must admit I do not know too much about
21 industry, but it would seem to me that the man in industry,
22 as he improves himself, has an opportunity to improve his
23 position in that industry, and in that sense I would
24 think there is a realm of capital gain attached to the
25 courses and the improvement that he gets thereby, whereas
26 in most instances, in the case of professional men, it
27 is not so much a case of him improving his own position
28 within the program that he is working as it is to allow
29 him to render better service to the patients that he
30 serves.



1 It would seem to me there is a distinct
2 difference.

3 THE CHAIRMAN: The latter you consider
4 maintenance and the former capital?

5 DR. MacINTOSH: That is right.

6 COMMISSIONER PERRY: He may be improving
7 himself if he is preventing himself from sliding back.

8 DR. MacINTOSH: That is right, trying to hold
9 his ability to render first-class service.

10 THE CHAIRMAN: I think you have a point.

11 DR. MacINTOSH: The other point was the one
12 raised by Mr. Grant in his question about the relative
13 importance of clinical demonstration in these courses.

14 If an example is of any value, next week at
15 the University of Toronto we are having just such a
16 course in one of the particular specialty phases of
17 dental service. It is a five-day course, and I have
18 just roughly tried to break it down as to the amount of
19 time involved with lecture presentations, the amount of
20 time involved with clinical demonstration and clinical
21 practice, which we also think is important as part of
22 this program, and it works out to roughly 70% of the
23 time of that week is involved in clinical demonstration
24 and clinical practice where these men come in to take
25 this course actually do the work under the guidance of
26 the demonstrators or the professors giving the course.

27 This is hard to get in any other type of
28 program, sir, but a course that is given at a recognized
29 university.

30 THE CHAIRMAN: I take it you would be very



1 happy to practise on Mr. Grant. Am I right?

2 DR. MacINTOSH: We are always looking for
3 patients.

4 THE CHAIRMAN: Is there anything further that
5 you gentlemen can put before us? It just remains for
6 me to say thank you very much, Dr. Keenan, Mrs. Brown
7 and gentlemen, for coming and so clearly putting these
8 problems before us today and addressing yourselves so
9 very clearly. I can assure you before we come to a
10 report they will be greatly considered by us. Thank
11 you very much indeed. Anything else, Mr. Secretary?

12 THE SECRETARY: One more item of business, Mr.
13 Chairman. On the 18th of March there was received in
14 the Commission's offices in Ottawa a brief from the
15 Canadian Copper and Brass Development Association. Mr.
16 R. Wardell, Manager, has written indicating that he
17 wishes to enter his brief into the record as he will
18 not be appearing, and I enter it into the record as
19 Exhibit 42.

20
21 --- EXHIBIT NO. 42: Brief of Canadian Copper and Brass
22 Development Association.

23 THE CHAIRMAN: Thank you. We stand over until
24 Monday morning.

25
26 --- Adjournment
27
28
29
30

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

TORONTO

ONT.

VOLUME No.:

14

DATE:

May 6, 1953

OFFICIAL REPORTERS

ANGUS, STONEHOUSE & CO., LTD.

BOARD OF TRADE BLDG.

11 ADELAIDE ST. W.

TORONTO

364-5865 364-7383



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

1
2
3
4 ROYAL COMMISSION ON TAXATION

5 Hearing held in Howard Ferguson
6 Auditorium, Sir Daniel Wilson
7 Residence of University College,
8 University of Toronto, Toronto,
9 Ontario, on Monday, the 6th day
of May, 1963.

9 COMMISSION:

10
11 MR. KENNETH LeM. CARTER -- Chairman

12 MR. J. HARVEY PERRY

13 MR. A. EMILE BEAUVAIS

14 MR. DONALD G. GRANT

15 MRS. S.M. MILNE

16 MR. CHARLES E.S. WALLS

17 LEGAL ADVISER:

18
19 MR. J.L. STEWART, Q.C.

20 RESEARCH DIRECTOR:

21
22 PROF. D.G. HARTLE

23 SECRETARY:

24
25 MR. G.L. BENNETT
26
27
28
29
30



ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 6, 1963

TOPICAL INDEX

VOLUME No. I4

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a) <u>INTRODUCTION:</u>		
	Opening remarks of the Chairman	I037
(b) <u>Submission: Of</u>		
	<u>A.C.F. Management Limited</u> <u>(A Mutual Funds Organization)</u>	I037
I	Balance of Payments and Foreign Exchange Reserves	I044, I046
4	Business Income Taxation- General concept of Business Income	I053, I054, I064 / I066
II	Business Income Taxation- Specific Industries	I037 / I072
I4	Corporate Income Tax- Dividend Tax Credit	I06I / I063
24	Fiscal Policy and Cyclical Budgeting	I042, I047
32	Personal Corporations	I048, I049
33	Personal Income Tax- Capital Gains	I053, I054, I064 / I066
(c) <u>SPECIFIC DISCUSSIONS:</u>		
	Preamble	I037 / I042
	The question as to Income taxation being an efficient instrument to control or direct investment flows into or out of the Canadian market	I039, I040
	Circumvention of tax provisions by changing from a Corporate form to a Trust form organization	I040, I058
	The practice of discrimination between buyers of foreign securities	I040
	Suggestion, Section 69 (2) (ba) be repealed and replaced by legislation to relief of burden in the present provisions of The Income Tax Act relative thereto.	I040, I04I



A.G.F. Management Limited

Volume No. 14

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(c)	<u>SPECIFIC DISCUSSIONS (Continued)</u>	
A review of the provisions of the Income Tax Act; in respect to Section 69 and sub-sections, its applications and influence on Investment Companies policies, and operations		IO42 / IO46 IO62, IO63, IO71
Mutual Funds Investment Companies at a disadvantage to those operating as an Investment Trust under the Income Tax Act provisions pertaining thereto .		IO47, IO48, IO51 IO56 / IO58
A reference to Personal Corporations, disposition of income exemplified		IO48, IO49
The American growth and European Funds, purpose of, and advantages. The Capital Gain aspect on the investment etc;		IO49 / IO54 IO59, IO60 IO64 / IO66
A reference to Income Taxation to be used as a weapon or instrument to promote economic nationalism		IO55, IO63, IO64 IO69, IO70
The sophisticated Investors, reason they maintain substantial foreign Assets in relation to available Assets representing a greater proportion of risk investment abroad.		IO56
A point of reference, that formation in Canada of a "Group" concerned with foreign investments could bring about considerable wealth to Canada by virtue of the exchange of knowledge, need for a broader free flow of securities, but restricted under sections of the Income Tax Act.		IO60, IO61
The eventual share ownership and nationality of the Investor percentage-wise		IO61
A question in reference to External Common Stocks and Canadian Common Stocks, decrease in External stocks, in any way related with legislation objected to, some statistics and exemplification		IO66 / IO68
Closing remarks of the Chairman		IO71, IO72



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May 6, 1963

Volume No. 14

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

<u>No.</u>	<u>Description</u>	<u>Page</u>
43	Submission of A.G.F. Management Limited.	I037
44	Exchange of correspondence between A.G.F. Management Limited and the International Bureau of Fiscal Documentation.	I072
45	Submission of Mr. J.W. M. Dixon	I072



Toronto, Ontario, 1937
Monday,
6th May, 1963.

B/dpw

--- On commencing at 9.30 a.m.

THE CHAIRMAN: If our visitors are ready, Mr. Secretary, shall we proceed?

THE SECRETARY: Mr. Chairman, Commissioners, this morning we have a brief being presented by A.G.F. Management Limited, 360 Bay Street, Toronto. Mr. C.W. Goldring, Vice-President, is going to speak to the brief and will introduce his colleagues. I would like to enter this brief into the record as Exhibit No. 43.

--- EXHIBIT NO. 43: Submission of A.G.F. Management Limited.

SUBMISSION OF A.G.F. MANAGEMENT LIMITED

Appearances: Mr. C.W. Goldring
Mr. R.H. Jones
Mr. G.H. Montague
Mr. R. Law

THE CHAIRMAN: Thank you, Mr. Secretary. Good morning, Mr. Goldring. You are starting by introducing your colleagues, I understand. Don't bother standing unless you wish to do so. We endeavour to conduct this as informally as possible. We would be very glad if you would care to speak to your submission before we commence the questions.

MR. GOLDRING: Thank you, Mr. Chairman. I would like to introduce my colleagues, starting at my extreme right: Mr. Robin Law, graduate of McGill, called to the bar following study at Osgoode Hall. He is a corporation lawyer, a partner of Blackwell, Hilton, Treadgold and Spratt, and director of European Growth Fund Limited,



1 American Growth Fund and Governor of Canadian Trusteed
2 Income Fund.

3 To my immediate left is Mr. George Montague, a
4 graduate of the University of Montreal, called to the bar
5 in that province, post-graduate study at the London
6 School of Economics, a lawyer, partner of Blackwell,
7 Hilton, Treadgold and Spratt.

8 On my far left, Mr. Robert Jones, a graduate in
9 political science and economics from the University of
10 Toronto, a practising financial analyst, and for four
11 years, resident investment officer in London, England,
12 responsible for the substantial holdings of a major
13 Canadian life insurance company in the British and inter-
14 national investment areas. He is a director of European
15 Growth Fund and is an expert on investment markets in
16 overseas areas for our organization.

17 Myself, Frank Goldring, a graduate in political
18 science and economics, University of Toronto, also post-
19 graduate studies, London School of Economics, and a prac-
20 tising financial analyst with the main area of the
21 Canadian market security analysis. I appear before you as
22 Vice-President of A.G.F. Management Limited, a company
23 which directs and manages and also sells shares in the
24 three funds, American Growth Fund Limited, European Growth
25 Fund Limited and Canadian Trusteed Income Fund.

26 I recall, gentlemen, in the preliminary material
27 which your Secretary sent us that you mentioned interested
28 parties could be represented by counsel although it was
29 not necessary. You might wonder why on this pleasant
30 Monday morning we should be represented by two counsel.



1 I might just speak to that point. There is a client
2 relationship between A.G.F. Management Limited and Black-
3 well, Hilton, Treadgold and Spratt, but our business
4 interests go beyond that in certain areas, and this is one.
5 I have obtained their permission to say they appear as
6 two of the four principals before you and not as counsel
7 for A.G.F. Management.

8 In my brief summary of the background of the
9 four of us before you you will notice there are certain
10 similarities, an interest in economics, interest in busi-
11 ness and law, for my two legal colleagues, but there is a
12 deficiency, I might add, in there is no accounting back-
13 ground among us and therefore questions on tax accounting,
14 I am afraid, will be beyond our depth. There is one
15 thread of similarity between the four backgrounds and that
16 is some time spent overseas, in London, in most cases,
17 with the exception of Mr. Law.

18 It is with this background that we feel that
19 there are certain broad principles involved in our brief
20 before you this morning. These principles will affect,
21 we contend, the growth of Canada and the type of Canada
22 we are going to see over the years ahead. While we will
23 be pursuing this brief on a rather narrow basis of the
24 effect of taxation on mutual funds we will endeavour to
25 speak to the broader principles whenever that is considered
26 advisable by the Commission.

27 Just to summarize the brief there are five main
28 arguments. One, we don't believe income taxation is an
29 efficient instrument to control or direct investment flows
30 into or out of the Canadian market. Two, if it was to be



1 used it should apply to all savings institutions and not
2 merely investment companies.

3 Thirdly, there is no sense in a tax provision
4 which can be circumvented by the simple expedient of
5 changing from a corporate form to a trust form of organiza-
6 tion. Fourthly, under certain circumstances a degree of
7 economic nationalism can be justified, but we believe it
8 is the long-range interest of Canada to encourage a free
9 flow of investments both into and out of this country.

10 Fifthly, there should be no discrimination
11 between buyers of foreign securities. We maintain there
12 should be no additional cost to the investor investing
13 abroad because he invests by mutual funds which is not
14 present if he is a large investor buying foreign securities
15 on his own.

16 Our conclusion, therefore, gentlemen and Mrs.
17 Milne, is that we suggest in the brief that the sections
18 concerned with this, Section 69(2)(ba) be replaced by
19 legislation which does not have this burden. I think Mr.
20 Montague will speak to the more specific or positive
21 aspects of our recommendations.

22 THE CHAIRMAN: Thank you. Mr. Montague?

23 MR. MONTAGUE: I have two points which I would
24 like to bring into preliminary discussion. First is that
2 25 we have created the impression we are the only people
26 affected by this type of legislation. In reviewing our
27 brief we realize that that is not the case. There is
28 evidence that pension funds have similar types of restric-
29 tions. We are not experts on the pension fund problem
30 and we don't hope to be examined closely on this area.



1 However, we do admit this is another area where
2 this type of legislation or this particular group of
3 enactments that occurred during the baby budget - were
4 brought forward in the baby budget - this is another area
5 that has been touched upon by this particular piece of
6 legislation. That is the first comment. We apologize
7 for this statement or the impression that is left by our
8 brief that perhaps we have a monopoly of the evils of the
9 Tax Act.

10 A second point; we hope to avoid trying to tell
11 you exactly what type of legislation should be introduced.
12 We are convinced the principle is wrong, that the parti-
13 cular legislation we are examining is wrong. I think, as
14 you will find in the examination of Mr. Goldring and our-
15 selves, that we are not specifically trying to direct the
16 Government away from measures which might encourage
17 Canadian investment.

18 What we are saying is this particular measure
19 is perhaps ill-advised and has not achieved what it should.
20 We have restrained ourselves from any advice to this
21 Commission as to what particular legislation should be
22 enacted because we appreciate there are other principles
23 involved beyond just the principle of equity and good invest-
24 ment policy which we think are inherent in the type of
25 criticism that appears in our brief. These are the two
26 points.

27 Firstly, we apologize that we haven't mentioned
28 the pensions and secondly, we haven't attempted to bring
29 forward particular legislation. We are simply here to
30 have a critique, as it were, of this section of the Act.



1 THE CHAIRMAN: Thank you. Is there anything
2 else from you, Mr. Goldring?

3 MR. GOLDRING: That is all, Mr. Chairman.

4 THE CHAIRMAN: We have some questions to put to
5 you. I think we might as well get to them now.

6 COMMISSIONER GRANT: Mr. Chairman and gentlemen,
7 I should think you have made your position abundantly
8 clear both in your brief and in your statements this
9 morning. I think you have been frank to the point of
10 disarmament. You have told us that you are dissatisfied
11 with the present legislation but you are not prepared to
12 say what the legislation would be. I would like to review
13 the provisions of the Act.

14 As the section was in 1955 - and at that time
15 69(2)(ba), sub-section (ba) stated, I believe, that not
16 less than 60% of the gross revenue would have to come
17 from dividends of taxable corporations if a company was to
18 bring itself within the provisions of this section. That
19 was changed, as you pointed out in your brief, in 1956.
20 I suppose one could say it was quite radically changed
21 in that it stated not more than 50% of the revenue would
22 have to come in the form of interest.

23 Your company was incorporated in 1957. The
24 thought occurred to me: did this change in the Act conjure
25 in your mind the fact that this section might be used as a
26 means of supporting fiscal policy?

27 MR. GOLDRING: You are referring to the business
28 decision at the time, whether to go ahead?

29 COMMISSIONER GRANT: You made your decision to
30 form a company that had as its principal object to invest



1 in foreign securities. Looking at the Income Tax Act
2 you knew that you could operate under Section 69 and at
3 that time, in 1957, you had very wide powers to invest
4 in foreign securities, because the only restriction under
5 Section 69, as it affected you in 1957, as I see it, was
6 the requirement that not more than 50% of your revenue be
7 in the form of interest from fixed income securities.

8 Now, there was a change, quite a radical change,
9 in that year. Would you care to say anything as to what
10 you considered your position to be? Did you consider that
11 the door was then open for you, more so then than in the
12 past to invest in foreign securities?

13 MR. GOLDRING: I would say, Mr. Grant, that
14 there were three or four major risks at that time,
15 changes in the value of the Canadian dollar, threats of
16 possible currency control and the change in the legislation
17 you mentioned, to name but three, that existed and were
18 given weight and recognized by doing what we were doing.

19 We were undertaking certain risks, but we didn't
20 give undue weight to the fact there was the introduction
21 of the legislation which was changed radically the
22 following year. I don't think we gave any more weight to
23 that provision than the other two.

24 Mr. Law, you were involved in the formation of
25 this company. Have you any other comment on that?

26 MR. LAW: I don't think Mr. Grant is interested,
27 really, in the business risks; why the company was formed.
28 If you are, sir, I could go into that to some extent.

29 COMMISSIONER GRANT: No, not at all.

30 MR. LAW: I think I can say that the business



1 decision was made prior to the examination of the Income
2 Tax Act, and that upon examination of this new provision
3 of the Act it certainly led us to believe that this type
4 of investing was to be encouraged. You couldn't feel
5 otherwise. The important provision in Section 69, as
6 far as the operation of the mutual fund is concerned, and
7 which ties in with the investment section, is the distri-
8 bution provision, that substantially all the income must
9 be paid to the shareholders in the year in which it is
10 earned, which lends support to the fairness of the provi-
11 sion when you consider it in relation to the tax provi-
12 sions which govern the individual investing either in
13 Canada or abroad on the same scale as a mutual fund, or
14 other investment company that deals with a large number
15 of people.

16 MR. JONES: I wonder if I might make an inter-
17 jection here. Mr. Goldring listed a certain number of
18 changes which might affect this type of operation, certain
19 risks of currency restraint and of dollar value with
20 respect to domestic taxation of international trusts
21 which do invest abroad. I don't think on the widest
22 examination they could have had any anticipation about
23 discriminatory legislation of this sort.

24 During the course of preparation of our brief
25 we have been in correspondence directly with certain
26 sophisticated financial and industrial countries, namely,
27 Britain, Switzerland and Holland, describing their attitude
28 towards this type of operation. We have also written to
29 the International Bureau of Fiscal Documentation in Holland
30 and have their reply to our letter. This indicates there



1 is no precedent existing presently for this type of legis-
2 lation in other countries where this type of fund is
3 operated. I would be happy to submit both our letter and
4 the reply we received from Amsterdam, if the Commission
5 wishes.

6 THE CHAIRMAN: Indeed, it would be helpful.

7 COMMISSIONER GRANT: You are referring there to
8 the 1961 amendment. That brings us to that amendment.
9 I think that you did say in your second statement, Mr.
10 Goldring, that a degree of economic nationalism could
11 be justified in certain circumstances so that when the
12 85% provision that was put in, and we will call it the
13 85% provision for simplicity, you would say that that was
14 determined by the Government as being a desirable thing in
15 view of Canada's trade imbalance existing at that time.
16 I suppose you would reach that conclusion, would you?



B/MR/ss

1 MR. GOLDRING: I would not draw it on such
2 narrow grounds. I think that a measure to conserve foreign
3 exchange at a time when there is a mass of departure, an
4 exodus of capital, may be necessary. Mind you, at this
5 time these were not the circumstances which applied.

6 You recall that the environment leading up to
7 the December baby budget was one of great worry over
8 foreign control of Canadian industry, and it was really in
9 answer to a financial crisis that this provision was
10 introduced. It was more the use of income taxation to
11 achieve a measure of economic nationalism, if we can
12 interpret history in this way at this time.

13 Indeed, there was a time this past June when a
14 degree of economic nationalism was justified, in my
15 opinion, in order to conserve the necessary foreign
16 exchange. This would not apply at the time that the "baby
17 budget" was introduced.

18 COMMISSIONER GRANT: Would you apply any theory as
19 to why the Act was changed in 1956?

20 MR. GOLDRING: Perhaps you would have some ideas
21 on that, Robin. I just cannot answer that really.

22 MR. MONTAGUE: I don't think we have any answer
23 to that since we would hope, sir, it would be in line with the
24 theory that the legislation was inconsistent with the
25 principle that I earlier tried to propound, that investment
26 trusts, basically, should be treated as a conduit pipe for
27 the income derived therefrom. What goes in one end comes
28 out at the other. An inference of this sort does not seem
29 to us to be the proper province for fiscal action. At any
30 rate, Mr. Fleming enunciated quite clearly with the



1 legislation. some of the principles. We do feel that
2 perhaps fiscal action is not to be used as a weapon so
3 much as an incentive, and if Canadian investment in
4 equity is to be encouraged, it should be done in a positive
5 rather than a negative fashion.

6 When this legislation was directed to both
7 investment trusts and the pension fund industry, it was
8 noted, as some of the statistics we have propounded, or
9 indeed it seemed to demonstrate an approach to a conver-
10 sion. In a sense, if it was to be used as a weapon, then
11 perhaps it should have been directed towards the saving
12 segments of the community which do not bear quite as large
13 a burden as this device in connection with industry as it
14 did to investment trusts and pension fund industries.

15 COMMISSIONER GRANT: You mentioned in your brief
16 that your type of company is placed at a disadvantage to
17 the investment trust that is being operated in the form of
18 a trust fund. Would you favour legislation which would
19 permit your company to operate in the same manner as, say,
20 a trust fund, as it is now being operated by a trust
21 company?

22 MR. GOLDRING: In my opinion, because I think
23 this would be a desirable type of legislation, I would say
24 yes.

25 MR. MONTAGUE: I think this certainly comes
26 closer to what we think would be the proper course than
27 segregating a particular aspect of this mutual fund
28 industry, and only apply legislation to that particular
29 aspect, or only apply legislation to that particular group
30 of companies.



1 Certainly I do not think we could be here
2 today if we were being treated exactly the same way as
3 a trust or investors individually and if equity amounts
4 to that, then I suppose our case is in a sense answered
5 if we were given the same treatment as the other saving
6 institutions.

7 COMMISSIONER GRANT: And the same would apply to
8 the personal holding corporations?

9 MR. MONTAGUE: I would agree with that. We are
10 just having a discussion here about personal corporation.
11 Perhaps Mr. Law would speak to that.

12 MR. LAW: It would seem to me this is a case
13 already, is it not, sir, with regard to personal corporations?

14 COMMISSIONER GRANT: In the personal corporation
15 income, as I understand it, is deemed to be the income of
16 the shareholder.

17 MR. LAW: That is right, and taxed as such, as
18 personal income, is it not?

19 COMMISSIONER GRANT: Any benefits accruing accrue
20 to the benefit of the shareholder, not to the company, and
21 it envisages of course, a 100% pay-out.

22 MR. LAW: Yes.

23 COMMISSIONER GRANT: So that in your particular
24 case you are not concerned with the building up of any
25 surplus, other than as a capital gain?

26 MR. LAW: It is not really possible, sir, to
27 operate an open end investment company or trust and
28 accumulate income unless there is going to be no taxation
29 of the income upon its distribution to the shareholders.
30 And this is the problem which has been avoided in several



1 ways in Canada, some of them quite ingenious and quite
2 interesting, such as in Montreal the idea where there is
3 unincorporated funds, with a new company incorporated
4 every year which is currently sold to the public and there
5 is the group of accumulating funds which are unincorporated;
6 several ways. It is impossible to operate an incorporated
7 open end fund on an accumulating basis, because the
8 individuals would then be acquiring a share of undistrib-
9 ted income which would eventually bear tax in their hands
10 and which rate cannot be equitably calculated at the time
11 they buy the share.

12 COMMISSIONER GRANT: Those companies to which you
13 refer, at least one company to which you refer, has a
14 very restricted field, I believe. It is supposed to be
15 set up largely for the executive.

16 MR. LAW: I don't think this is exactly true, sir.
17 The sales are most definitely competitive with the sales
18 of others, or try to be.

19 COMMISSIONER GRANT: There are some which are
20 designed so that the benefit will accrue after the owner
21 has retired and probably is in a lower tax bracket.

22 MR. LAW: There is a third way. There are others
23 which pay the dividends and have compulsory re-investment,
24 and this sort of thing. It is a constant effort to obtain
25 the benefits of compound income together with the
26 professional management of these funds which is going on
27 all the time.

28 COMMISSIONER GRANT: But we are concerned, of
29 course, this morning with one particular fund which is the
30 American growth fund and which was formed with the



1 express purpose of investing in United States securities.

2 MR. LAW: I believe it has another purpose,
3 in effect, in that the operation of the fund and its
4 stated policy since its incorporation has been directed
5 towards a type of security which the management believe
6 is not available to any great extent in Canada, and the
7 prospectus of the fund, since 1957, has spelled out the
8 investment policy to be followed by management directed
9 towards companies which invest income in research, to a
10 greater extent than the average, being the main target
11 of invested monies of American growth funds, so that it
12 is a particular phase of the American securities as
13 opposed to just American securities for the sake of being
14 American.

15 COMMISSIONER GRANT: Yes. You lay quite a bit
16 of emphasis on the fact you have an Advisory Committee in
17 New York who guide you in your decision of what you are
18 going to purchase for that fund.

19 MR. GOLDRING: Just as in European growth funds
20 we have an Advisory Committee in various European financial
21 centres.

22 COMMISSIONER GRANT: The American growth fund
23 itself has the object of capital appreciation. In other
24 words, growth stock more than its yield on investment.
25 Is that right?

26 MR. GOLDRING: That is correct.

27 COMMISSIONER GRANT: I think you lay some emphasis
28 in your brief on the fact that in the sale of these
29 shares you are acting on behalf of those smaller investors
30 who wish to invest their savings and through American



1 growth funds you are able to give greater diversification
2 and, you think, a better choice than if they were relying
3 on their own judgment.

4 MR. GOLDRING: That is correct

5 COMMISSIONER GRANT: In the sale of the American
6 growth fund shares yield is not too important an item,
7 is it?

8 MR. GOLDRING: That is correct.

9 COMMISSIONER GRANT: Then would you be at a
10 disadvantage in competing with the other mutual funds for
11 the small investor who would probably be more interested
12 in yield than the man whose income earning is dependent
13 upon his investment?

14 MR. GOLDRING: In the strict context of your
15 statement, yes, but we endeavour, through our sales force,
16 to insure that the purchase of these funds and the
17 European funds are measures of diversification of the small
18 individual holder's portfolio.

19 In other words, he will have income security
20 in Canada, Government bonds, high-yielding stock. He
21 will be unable, in Canada, to get certain major industrial
22 components such as the electronic group, airlines group,
23 business machines, a wide range of industries like this
24 which are unavailable in Canada. Elsewhere by a group of
25 these small individual holders' funds being channelled into
26 one larger group and the obtaining of expert advice, a
27 satisfactory method can be obtained of tapping those
28 sources of capital gains.

29 Now, coming right down to the individual, he
30 wants a high income. We say that by investing in these



1 research companies which plough back their earnings for
2 growth in both their sales, profits, and inevitably, we
3 trust, in their common stock, they can obtain an income
4 by selling some of their shares over time, and this is
5 equally true of Europe, where we believe there is a
6 consumer durable boom progressing which offers the same
7 scope for growth.

8 In answer to your question, Mr. Grant, the
9 income is not of prime importance, dividend income is not
10 of prime importance in American growth funds. Capital
11 gain is. We believe that the two should be synonymous
12 with most investors for diversification portion of
13 their portfolio.

14 MR. MONTAGUE: I wonder if I could add something
15 to what Mr. Goldring has said. It is true when you make
16 an investment in a stock that is selling at many times
17 earning, that is selling at many times dividends the yield
18 is not significant, but if, of course, the stock responds
19 in the way you think it will, then five years later though
20 it is still showing the same ratio on the current price,
21 it may be showing a very good return to an investor on the
22 price at which he invested. At that point it probably
23 does become of significance to him exactly how much his
24 income is being taxed, so that I do not think that we could
25 completely abandon the idea our investors are not interes-
26 ted in whether or not the monies they receive from
27 American growth have borne more tax than they might have
28 if we had been organized in another manner.

29 I think in time we do produce a good dividend,
30 and it is just a matter of growth. As Warren says, there



1 is no doubt that the capital gain aspect is important,
2 but I think it should be emphasized that in time a man
3 who has invested in a growth stock does get a good return.
4 Looking over the life of his investment, he probably
5 gets as good a return from income as if he had invested
6 in growth, high-yielding stock.

7 COMMISSIONER GRANT: I agree with everything you
8 say, Mr. Montague. Your salesmen have three stocks to
9 offer and you are the management company for those three
10 stocks, one of which is a Canadian stock. That does
11 come under, I suppose, 69 now.

12 MR. LAW: No. It is an unincorporated fund.

13 COMMISSIONER GRANT: When a salesman calls on
14 a small investor, it does seem to me he is going to be
15 sold more readily on the yield basis than he is upon
16 potential capital gain for various reasons, in that the
17 capital gain element in the American growth fund does
18 appeal to the sophisticated investor who is perhaps not as
19 dependent upon income as the small investor.

20 MR. GOLDRING: The facts would not support that,
21 Mr. Grant. An American growth fund is \$31,000,000.00,
22 \$32,000,000.00 in size, whereas the income fund, which of
23 course is much more recent, is just a little over
24 \$1,000,000.00. There is a fund which has been going the
25 same length of time as American growth fund, which is
26 \$2,500,000.00, and it has had a vigorous sales effort too,
27 so that people are interested in diversifying their
28 portfolio in growth industries.

29 COMMISSIONER GRANT: In other words, your American
30 growth fund has shown greater progress than the other?



1 MR. GOLDRING: It has.

2 COMMISSIONER GRANT: I am not going to get down
3 to internal management, but it does seem to me that one
4 reason why this has shown that increase, and marked
5 increase over the others, is that more money is available
6 by the sophisticated investor to put into those funds.

7 MR. GOLDRING: The break-down of the shareholdings,
8 the number of shareholders would indicate there is a very
9 large percentage of reasonably small investors in these
10 funds which are investing outside Canada.

11 COMMISSIONER GRANT: I think you bring out in
12 your brief quite frankly that notwithstanding the provisions
13 of Section 69 (2)(B)(A) that the investment in foreign
14 securities is increasing?

15 MR. GOLDRING: Yes.

16 COMMISSIONER GRANT: And my point there is that
17 if this is what the public want, then the public should
18 be given a better break than they are getting at the
19 present time. Is that right?

20 MR. GOLDRING: That is correct.

21 MR. MONTAGUE: I would also add another point,
22 based upon this fact, and that is that the legislation
23 has not achieved very much effect in discouraging anybody,
24 or in discouraging a substantial number of investors,
25 reducing this element in the Canadian portfolio.

26 In fact, it has had no effect upon the decisions
27 that are being made by investors.

28 COMMISSIONER GRANT: You make a point that other
29 companies which have funds for investment, should be
30 under the same restrictions.



1 MR. GOLDRING: This is based on the assumption,
2 with which we do not agree, that income taxation is going
3 to be used as a weapon, or as an instrument to promote
4 economic nationalism.



C/ET/dpw 1

Therefore, we are just laying before the Commission the inequity of singling out one particular section of the savings industry you might say for this type of tax.

MR. JONES: If I might interject, we are also laying before the Commission why the sophisticated investor, whether it be big industrialists or insurance companies or banks, do maintain substantial foreign assets sometimes in relation to the available assets, a greater proportion of risk investment abroad than they do in this country? I suggest there are certain good reasons for this, and since they are not denied the ability to do this, it does not seem to stand to reason that the investment trust industry, particularly that segment of it representing small Canadian investors should be so discriminated against.

COMMISSIONER GRANT: Yes. I am advised the pension funds that are in operation in Canada today, the requirement there is 90% of the income shall be from Canadian corporations. Of course, pension funds are not subject to income tax.

Would you say that as a result of the amendment of 1961 that there has been a greater use being made of the investment trusts as operated by, say, a trust company?

MR. GOLDRING: I would say there has been a greater emphasis on the trust form of incorporation for mutual funds, and it might be worthwhile pointing out that this form is not as satisfactory, we believe, as the company form if the taxation was equivalent in both cases.

MR. LAW: I think when we say not as



1 satisfactory, that is not only from the obvious point of
2 view of there being a Companies Act under which a good
3 deal of your regulation comes, but also from the point
4 of view of the interests of the shareholder or unit holder
5 in the organization in that a trust is not governed by
6 any legislation in Canada as a form of organization.
7 There is no statute such as in Scotland or Massachusetts
8 governing unincorporated companies.

9 These can be formed with all sorts of wonderful
10 provisions for the advantage of management as opposed to
11 the interests of shareholders generally or individually,
12 so that the disadvantages are not just to the management
13 group. It is primarily the disadvantage to the public,
14 I think, as a whole, who are being offered these securities
15 and the lack of regulation.

16 COMMISSIONER GRANT: Well, Mr. Law, if a mutual
17 fund can be established without the necessity of incorpora-
18 ting a company, the sale of units, let us say, in that
19 mutual fund would have to have the approval of the
20 Security Commission.

21 MR. LAW: That is right.

22 COMMISSIONER GRANT: In whatever the province.

23 MR. LAW: That is right, but on the other hand
24 you do not even need a Board of Directors.

25 COMMISSIONER GRANT: I beg your pardon?

26 MR. LAW: You do not need a Board of Directors,
27 for instance.

28 COMMISSIONER GRANT: Yes.

29 MR. LAW: You can by declaration of trust provide
30 for a great many governing rules which an organization



1 cannot do under the Companies Act with regard to redemption
2 of shares. This is probably the most important one in the
3 mutual fund - there is no Section 61 to govern the trust,
4 and this is, I think, where the disadvantage lies as
5 opposed to the awkwardness which is there. I think we
6 have grown away from unincorporated companies many years
7 ago; I guess it is nearly 100, and to go back to it or
8 be forced back to it is surely not progress.

9 COMMISSIONER GRANT: Well, it probably would not
10 be acceptable with the public, anyway, would it? There
11 are so many imperfections.

12 MR. LAW: I do not know that I could answer
13 that.

14 MR. GOLDRING: Some of the major funds are
15 trustee in form both U.S. and Canadian, and I do not think
16 the public has ever shown any discrimination; particularly
17 in trustee form, so many of the documents are so large
18 and complicated that they do not understand.

19 MR. LAW: There is no question this is a tradi-
20 tional form for investment companies.

21 COMMISSIONER GRANT: You mentioned the non-
22 resident corporation as being another medium by which the
23 provisions of Section 69 might be circumvented. Has there
24 been any increase in operations of this kind, to your
25 knowledge?

26 MR. GOLDRING: We have listed on page 11 the
27 recently formed funds which operate, which is a direct
28 answer to your question, Mr. Grant, but we are very much
29 afraid of a substantial increase in the sale of foreign-
30 based mutual funds in Canada if there is no Canadian



1 product which is available for the market which exists
2 here.

3 I would not say that we are afraid of meeting
4 this foreign competition under any circumstance provided
5 the ground rules are the same for both, but inevitably
6 if mutual funds which invest outside Canada are subject to
7 a unique tax, it is not the case of, say, U.S. funds sold
8 in Canada and based in the United States. It is only
9 logical that the rather tender growth of an organization
10 providing those overseas investments in Canada will be
11 nipped off, and the weight of advertising and the weight
12 of sales pressure will force Canadians to buy U.S.
13 products or European.

14 This is another aspect of the foreign-based
15 mutual funds which we refer to.

16 COMMISSIONER GRANT: The Canadian investor
17 buying shares in the foreign-owned corporation places
18 himself under a strict disadvantage tax-wise.

19 MR. MONTAGUE: You are saying a Canadian who
20 invests in a share issued by an American fund is at a
21 disadvantage?

22 COMMISSIONER GRANT: Tax-wise.

23 MR. MONTAGUE: In terms of tax?

24 COMMISSIONER GRANT: Yes. One thing, he does
25 not get his 20% tax credit.

26 MR. LAW: Well, he would not on an individual
27 basis either if he were buying the securities directly or
28 if he were buying the units in an unincorporated fund.
29 If the securities held by the fund were American, there
30 would be no dividend credit to flow through to the unit



1 holders.

2 MR. GOLDRING: There would be no tax disadvantage
3 that I could see if we are speaking of buying U.S. securi-
4 ties directly or buying the U.S. mutual fund which is
5 invested in U.S. securities. The tax burden would be the
6 same. Namely, the 15% withholding tax on dividend income,
7 which is paid by American Growth Fund, and in addition is
8 taxed in Canada, and thirdly, it is taxed in the hands of
9 the individual.

10 COMMISSIONER GRANT: I was wondering if the
11 present legislation remains if it would give rise to the
12 sale in Canada of mutual funds issued by a foreign-owned
13 corporation.

14 MR. GOLDRING: We maintain this would take
15 place and is taking place.

16 MR. JONES: One is on the schedule here, Putnam
17 Growth Fund, which was introduced in Canada in 1962.

18 COMMISSIONER GRANT: So that the emphasis, then,
19 is on capital appreciation?

20 MR. GOLDRING: I think we went over that in the
21 words of Mr. Montague, and also I think the question you
22 raise brings into focus the broader points we have been
23 attempting to emphasize in our brief. We are convinced
24 that the formation in Canada of a group of people concerned
25 with foreign investments will bring considerable wealth to
26 the country over a time because of the exchange of know-
27 ledge, because of benefits obtained in these other markets,
28 and it is really not a question of income per se or capital
29 growth. It is more the broader free flow of securities
30 that is, we think, at issue in this section of the Income



1 Tax Act.

2 COMMISSIONER GRANT: It is a thing that you
3 would say is a right that Canadians should have the
4 privilege of sharing in without undue penalty?

5 MR. GOLDRING: Right.

6 MR. MONTAGUE: That is a particular class of
7 Canadians should share as other Canadians are sharing now.
8 There should be no discrimination against this group of
9 investors who invest in that sort of fund as opposed to
10 buying on the New York Stock Exchange.

11 MR. JONES: The intention of mutual fund invest-
12 ments in our type of fund is turned to the capital appre-
13 ciation potential. In the process of selling this and
14 emphasizing its advantages, we do turn the Canadian away
15 from his conservative preoccupation with income to the benefit
16 of his being interested in risk investments in Canada as
17 well as elsewhere.

18 THE CHAIRMAN: I think we have a few more ques-
19 tions.

20 COMMISSIONER PERRY: I have two or three points
21 I would like to raise. First of all, would your records
22 show what is the eventual share ownership, the eventual
23 nationality, of your share ownership? Does most of it
24 stay in Canada?

25 MR. GOLDRING: Ninety-nine per cent Canadian
26 ownership. Close to 100%.

27 MR. MONTAGUE: I would hope 100%.

28 COMMISSIONER PERRY: Another point arises out
29 of the importance you attach to the dividend tax credit.
30 Obviously, Section 69 was framed largely to meet the



1 interests of companies who felt that this was a signifi-
2 cant factor in merchandising their shares. However, I
3 understand now you would be willing to embrace the conduit
4 principle to the extent that the dividend tax credit would
5 apply on a small part of your dividends.

6 MR. GOLDRING: This is as it applies in our
7 Canadian Trusteed Income Fund.

8 COMMISSIONER PERRY: This, in effect, goes back
9 to the question of the relative importance that you attach
10 to income against growth. In your case, you do not attach
11 that much importance to the dividend tax credit?

12 MR. GOLDRING: No.

13 MR. MONTAGUE: It is important if you are
14 investing in Canadian securities, but we acknowledge that
15 there is a difference. When we go abroad to make our
16 investment here we do not seek to have ourselves classified
17 as a Canadian corporation, so that those dividends or that
18 portion of the dividend accounted for by income received
19 from foreign investment is also subject to 20% dividend
20 credit.

21 COMMISSIONER PERRY: Well, this legislation has
22 had a very tortuous path, of course, and it is hard to
23 see what would have been the position at previous stages,
24 but would it not be true now if the sub-clause you propose
25 be removed were removed all your dividends would carry a
26 dividend tax credit?

27 MR. MONTAGUE: Yes. We tried to create that
28 caution; we did not really intend this as a positive step
29 to say how this Act should be altered. We hope to
30 establish a principle with you, and obviously it is going



1 to need some more detailed application than we have
2 given it.

3 We did not intend that the simple striking out
4 of this clause would be the right answer, but this is the
5 offender as far as we are concerned, and this is what we
6 want to get rid of, and what you supplant it with we hope
7 might be something better equipped to our needs.

8 MR. LAW: There was a 20% tax on the company,
9 or 21%, whatever the aggregate tax happened to be, and
10 charging 20% tax and giving a dividend credit while
11 insisting that substantially all the income be distributed
12 every year, seemed an exercise in accounting and book-
13 keeping for no real purpose as far as we were concerned,
14 but really the principle which we wish to see established
15 is tax consequence to a small investor investing through
16 an incorporated mutual fund ending up in the same position
17 as a large investor who can afford diversification and
18 management directly.

19 In addition to the funds Mr. Jones and Mr. Gold-
20 ring also advise with respect to large portfolios for
21 individuals, and they are taxed differently in the case
22 of foreign securities than their same clients who invest
23 through the medium of the investing company, but we are
24 not asking for no taxation on the fund and on dividend
25 credit, on dividends distributed by the fund.

26 COMMISSIONER PERRY: You had some fairly strong
27 words about using income tax for purposes of economic
28 nationalism. I hope you have not overlooked that our
29 terms of reference almost require that we investigate
30 these possibilities. I hope it is true you have not



1 overlooked that.

2 MR. GOLDRING: We have not overlooked it.

3 MR. JONES: I think what we are saying, sir,
4 is that the taxation measure going in should emphasize
5 the incentive part rather than the arsenal of weapons
6 that might be included, particularly in respect to
7 certain international principles as we see them such as
8 using these investment trusts and conduits.

9 COMMISSIONER PERRY: One final question which
10 you may or may not wish to answer: we have had many
11 witnesses argue for capital gains tax in this country.
12 There are various ways in which I could phrase the ques-
13 tion.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30



PB/ss 1 Would you care to comment on the proposal that
2 we have a capital gains tax? You should have some expert
3 knowledge on this matter?

4 THE CHAIRMAN: This is a very important matter,
5 obviously, because we have lots of evidence in favour of a
6 capital gains tax.

7 COMMISSIONER PERRY: We are going to hear about
8 it for the next year or two.

9 MR. GOLDRING: As far as this brief is concerned,
10 I think this question and our answer to it is not too
11 relevant, but I think perhaps outside this, as far as the
12 A.G.F. Management is concerned --- I don't want our answer
13 to be linked with this brief.

14 COMMISSIONER PERRY: Let us assume for the
15 moment you are making a separate appearance.

16 MR. GOLDRING: The partners who primarily own
17 A.G.F. Management are also with Fry and Company Limited
18 investment dealer, and certainly there is no area that
19 gives greater concern, is more time-consuming, inefficient,
20 you might say, in the operation of an investment dealer
21 of the type of Fry and Company than the question of
22 capital gains, what is taxable and what is not. To have
23 some clarification of this capital gains whereby to
24 measure tax on it I think would be desirable, speaking
25 personally. To continue in this grey world between white
26 and black, where you never know what is taxable and what
27 isn't is a most undesirable state of affairs. The type of
28 capital gains introduced recently in Britain seems to have
29 considerable merit in my mind. It defines, you know, an
30 investment as something over six months, which is a



1 straightforward yardstick and those who are constantly
2 trading within that six-month period can offset losses
3 against their gains. In summary, to have some clarification
4 along that line, I think would be of great service
5 to those in the investment industry.

6 COMMISSIONER PERRY: Thank you very much.

7 THE CHAIRMAN: Thank you indeed for your words
8 on capital gain, which as I say, we are going to be
9 greatly concerned about. Should you have anything further
10 to add, we would like to have it from you either by
11 letter or appearance. It is certainly my opinion that
12 the administration of capital gains is very far from being
13 a simple matter.

14 I
15 have one or two questions. Turning to page 10 of your
16 submission there is a schedule with regard to portfolio
17 development and taking the years 1961 and 1962, I
18 observe that external common stocks have decreased
19 \$4,000,000.00 between those two years, whereas Canadian
20 common stocks have increased by the same amount. The
21 total assets have gone up \$10,000,000.00 and that seems to
22 have gone into bonds, preferred and liquidated assets.
23 My question is, would the decrease in external common
24 stocks be in any way related to the legislation to which
25 you object?

26 MR. JONES: I think it is mainly the function
27 of management of the respective stock markets concerned.
28 I brought along the statistics. Between 1961 and 1962,
29 Dow Jones showed 731 and 651. I didn't figure it out.
30 It is 80 on 731, just over 10%. 619 to 575, that is 34 on



1 619 which is something over 5%. I think it is more than
2 the function of the stock market. If you work this out,
3 you will see there was no diminution of the actual amount.
4 Just as a side point to this chart you will note we put
5 in just Canadian-owned mutual funds. You would find the
6 trend out of Canadian securities into the foreign
7 securities to be much greater in the case of the so-called
8 N.R.O. funds which are owned by Americans in the United
9 States and incorporated up here in Canada. As you know,
10 back in the fifties these were mainly going into Canadian
11 stocks, but in the period 1959 to 1962, they were
12 swinging out of the Canadian stocks into overseas
13 securities, quite apart from the large redemptions which
14 they were experiencing due to some of the administration
15 tax amendments down there. I just thought I might mention
16 that, because quite above what you see in the brief, if
17 we had put in the N.R.O. group with the rest of the
18 Canadian mutual funds, it would have increased it. We
19 didn't think it quite proper to do so, because they were
20 American-owned and largely American-managed funds. You
21 would see the trend to non-Canadian investments to be
22 even larger than illustrated here.

23 MR. LAW: We thought it was only fair to leave
24 N.R.O. out, because the State Tax Act was a considerable
25 encouragement for them to stop investment in Canada.

26 THE CHAIRMAN: I thought I would draw attention
27 to the summary on page 13 which indicates with regard to
28 the investments of three Canadian life insurance companies
29 a very much larger part of the U.S. investment is in
30 common stock than is the case in Canadian, Sterling and



1 European. Would you care to comment on that?

2 MR. GOLDRING: We could comment on it. As in any
3 group of figures, we don't want this to be taken completely
4 verbatim. There are fiscal assets which correspond to
5 equities in Canada in the U.S. which might alter this
6 relationship somewhat. We believe that these figures
7 illustrate the point that we make. We are not in any way
8 putting this forward as a very thorough statistical
9 review of insurance company investment policies.

10 MR. JONES: If I might elaborate slightly you
11 will notice in the headings is the term "security port-
12 folio distribution" including all bonds, stocks and
13 preferred stocks. In the event that you should add
14 in such important assets as loans, mortgages and real
15 estate you would find, in fact, because the Canadian
16 companies hold a great many Canadian mortgages, but
17 they don't hold many in the United States or Great
18 Britain that the ratio of Canadian equities to total
19 assets would be much smaller, both absolutely and in
20 relationship to the proportion they hold elsewhere. We
21 are taking the conservative way of presenting it here.
22 It still makes our case.

23 COMMISSIONER GRANT: How much would the division
24 of investments be determined by the British and Canadian
25 Insurance Companies Act?

26 MR. JONES: As you probably know very well, Mr.
27 Carter, they can go up under the legislation to 15% of
28 their total assets in equities, so in no case, on the
29 average, have they reached this limit. This Canadian and
30 British Insurance Companies Act applies to the insurance



1 companies in whatever country they are. They could hold
2 15% in Canada. They could hold 15% overseas. They could
3 hold 15% in American, if they so wished. This isn't a
4 factor, as you can see, in limiting to this point. The
5 Act in this context in which we are discussing it does
6 not affect the decision. They are holding equities where
7 they reckon it is the best place to hold equities.

8 THE CHAIRMAN: U.S. securities held would relate
9 to their business done in the United States, I would
10 assume, and their investment pattern would follow the
11 investment pattern customary in their industry in the
12 United States.

13 MR. JONES: I don't think you would find many
14 Americans spending up to 12½% in equities. I believe the
15 New York law limits it to 1%.

16 THE CHAIRMAN: Does it?

17 MR. JONES: Unless it has been changed.

18 MR. GOLDRING: On the other side many insurance
19 companies in Great Britain hold 33, 35%. It is more a matter
20 of policy between the Canadian British Insurance Companies
21 Act.

22 MR. JONES: The latest Financial Post survey, and
23 we have compiled some figures subsequent to the brief, shows
24 on the average Canadian companies average 4.3% of the total
25 assets in common stocks. That 4.3 includes all the British,
26 all the Canadian, all the American stock held. To break it
27 down would be a tremendous research project.

28 THE CHAIRMAN: You used the term "economic
29 nationalism" quite a lot. I don't know I like the term very
30 much. I think you distinguish encouragement to invest in
Canadian securities and sanctions against investing abroad.
If I understand you correctly, I think that the encourage-
ment to invest in



1 Canadian securities which is granted by reason of the
2 dividend credit wouldn't be an instrument within the
3 meaning of the term "economic nationalism". Am I correct
4 on that?

5 MR. GOLDRING: I think that falls in the
6 area of incentive to invest in Canadian equities.

7 THE CHAIRMAN: If there was legislation to
8 achieve a trust type of conduit that would, I presume,
9 require the complete distribution of the income of this
10 open end trust, or in the alternative a deeming of
11 distribution which would probably achieve the same thing,
12 because one would wish to distribute the whole in order to
13 make funds available. That could be done, of course, I
14 would assume by exempting the concern from tax,

15 or it could be done by imposing a tax upon the
16 undistributed part of the income by way of penalty, perhaps,
17 for not achieving full distribution. Do you think this
18 is a desirable course to achieve a conduit?

19 MR. LAW: Mr. Chairman, I don't think that the
20 accumulation of income in a large open-end investment fund,
21 I cannot see how it can ever be practical so long as there
22 is a personal income tax which varies according to the
23 individual's income, or if any other income varies, it
24 becomes completely impractical, so that the distribution is
25 going to be necessary in any event to operate an equitable
26 fund. It could be done in either of the two ways. At the
27 moment the trust is taxed as one individual in relation to
28 income not paid or payable in the year. This in most
29 cases of large funds would be a tremendous penalty. On
30 the other hand, the type of legislation which formerly was



1 in Section 69 requiring distribution of a given percentage
2 in order to qualify would appear to me to be a little fairer
3 in that technically from the investment and accounting
4 point of view it is virtually impossible to distribute
5 100% simply because of the mechanics of writing cheques
6 and mailing them to people. With the 85 or 90% that it
7 was, and of course it is still in Section 69 for those
8 companies which are fortunate enough to fall within it it
9 means that virtually all the income is paid out, but there
10 is a reasonable leeway for administrative operation. I
11 think it is a little fairer than the trust type of tax-
12 tion which taxes everything that is undistributed at a
13 considerably higher rate.

14 THE CHAIRMAN: One thing that might cause a little
15 concern is to match income distributed with income received.
16 If it is conduit, the T-5 return or whatever the
17 Government uses for reporting purposes, must indicate
18 the proportions of the income or the amounts of the income
19 which are derived from foreign securities, from bonds, or
20 from Canadian common stocks.

21 MR. JONES: In trying to distribute one hundred
22 percent in the year we seem to constantly get into
23 difficulties with December 31st, which is a heavy receiving
24 period and to mechanically turn around in a matter of
25 the same day requires knowledge of the policies of the
26 companies, the securities, the funds held and as to what
27 dividends they are going to declare. It becomes quite
28 difficult. Therefore I think with Section 69 with 85 or
29 90% it is much more workable.

30 THE CHAIRMAN: Thank you very much, Mr. Goldring



1 and gentlemen, for bringing this to us and giving us your
2 ideas on these problems. We will certainly consider them
3 more thoroughly. If you have any more views or any
4 change in your present thought we would be very glad to
5 receive them.

6 MR. GOLDRING: Thank you, Mr. Carter and Members
7 of the Commission.

8 THE SECRETARY: Excuse me, Mr. Chairman, may I
9 ask before we close up do you wish to enter this corres-
10 pondence into the record?

11 THE CHAIRMAN: I would like us to have that.
12 We would return the originals.

13 THE SECRETARY: I will enter it as Exhibit 44,
14 and return it to you.

15
16 ---EXHIBIT NO. 44: Exchange of correspondence
17 between A.G.F. Management
18 Limited and the International
Bureau of Fiscal Documenta-
tion.

19
20 THE CHAIRMAN: Thank you.

21 THE SECRETARY: I would like to enter a brief
22 as Exhibit 45, which has been presented by Mr. J.W.M.
23 Dixon on his own behalf. Mr. Dixon has indicated he
24 doesn't wish to appear before the Commission. The brief
25 was received in the Commission's Office on the 20th of
26 March.

27
28 ---EXHIBIT NO. 45: Submission of Mr. J.W.M.
Dixon.

29 THE CHAIRMAN: Thank you. We will stand down.

30 ---Adjournment.



ROYAL COMMISSION ON TAXATION

HEARINGS HELD AT THE CITY OF TORONTO, ONTARIO

May 7, 1963

TOPICAL INDEX

VOLUME No. 15

Legend (/) Indicates
page to
and from

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(a) <u>INTRODUCTION:</u>		
	Opening remarks of the Chairman	IO74
(b) <u>Submission: Of</u>		
	Mr. Frank O'Hearn , (Director of the Office of Valuation and Exchange)	IO74
I. Balance of Payments and Foreign Exchange Reserves		IO79, IO80
I9 Economic Growth (Burden of Taxation)		IO74
24 Fiscal Policy and Cyclical Budgeting		IO74
29 Interest rates and Money Supply		IO74 / IO98
43 Public Debt		IO92
(c) <u>SPECIFIC DISCUSSIONS:</u>		
	Preamble	IO74 / IO82
	Nature of represented Organization, its functions and purpose	IO74 / IO82
	An open letter directed to The Prime Minister, The Right-Honourable Lester B. Pearson, M.P. dated May 1st, 1963	IO82 / IO89
	Comments and details of a personal loan from a bank, a peculiar account- ing problem	IO89 / IO92
	Some advanced formula's for Money Supply. A new source of Government Revenue in lieu of tax levies	IO92 / IO95, IO97
	A few remarks of The Chairman Mr. Carter in respect to the formula's introduced	IO95 / IO97
	Impact of taxation v/s banking methods	IO97
	Closing remarks of the Chairman	IO98



Volume No. I5

<u>Titles</u>	<u>Description</u>	<u>Page</u>
(d) <u>Submission:Of</u>		
	<u>Sunbeam Corporation of Canada Limited.</u>	IO98
	Opening remarks of the Chairman	IO98
9	Business Income Taxation - Other	IO99 / III2
49	Tax Administration	IO99 / III2
(e) <u>SPECIFIC DISCUSSIONS:</u>		
	Preamble	IO98, IO99
	Suggest period for filing Corporate Tax Returns be (4) four months, instead of (6) six months after end of the fiscal year	IO99 / II02
	Corporations, a supplementary point, visualization of Tax Installment payments being shifted forward v/s new payment series	II02, II03
	Assessment of Tax returns, the problem of final assessment, appeals and delays and the re-assessment period under section 46 of The Income Tax Act	II04 / III0
	A point of reference to the expression " Maintain the four year re-appraisal period" in respect to assessment appeals	II05, II06
	Appeal Board, a question of its perfor- mance in handling cases expeditiously, and the Exchequer and Supreme Courts efficiency in disposal of cases in dispute after appeal	II07 / III2
	A point of view in respect to setting up a " Specific Tax Court" with powers of finality, questionable	III2
	Closing remarks of the Chairman	III2



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Toronto, May 7, 1963

111

Volume No. 15

INDEX OF EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Page</u>
46	Submission of Mr. Frank O'Hearn Director of the Office of Valuation and Exchange,	I074
47	An open letter filed by Frank O'Hearn.	I088
48	Record of loan account, submitted by Frank O'Hearn.	I088
49	Submission of Sunbeam Corporation of Canada Limited.	I098
50	Submission of The Sudbury and District Municipal Association.	III3



1
2
3
4 ROYAL COMMISSION ON TAXATION

5 Hearing held in Howard Ferguson
6 Auditorium, Sir Daniel Wilson
7 Residence of University College,
8 University of Toronto, Toronto,
9 Ontario, on Tuesday, the 7th day
10 of May, 1963.

11 COMMISSION:

12 MR. KENNETH LeM. CARTER --- Chairman

13 MR. J. HARVEY PERRY

14 MR. A. EMILE BEAUVAIS

15 MR. DONALD G. GRANT

16 MRS. S.M. MILNE

17 MR. CHARLES E.S. WALLS

18 LEGAL ADVISER:

19 MR. J.L. STEWART, Q.C.

20 RESEARCH DIRECTOR:

21 PROF. D.G. HARTLE

22 SECRETARY:

23 MR. G.L. BENNETT
24
25
26
27
28
29
30



1
/ss 2 ---On commencing at 9:30 a.m.

3 THE CHAIRMAN: Mr. Secretary, have you any
4 business before we commence with this morning's hearing?

5 THE SECRETARY: Sir, we will just start right
6 in this morning. We have with us, Mr. Chairman, Commis-
7 sioners, Mr. Frank O'Hearn who is director of The Office
8 of Valuation and Exchange which is a private research
9 bureau.

10 Mr. O'Hearn has submitted his brief to the
11 Commission and he is here to speak to it. I would like to
12 enter it into the record as Exhibit No. 46.

13
14 ---EXHIBIT NO. 46:

Submission of Mr. Frank
O'Hearn, Director of the
Office of Valuation and
Exchange.

15
16
17 THE CHAIRMAN: Thank you, Mr. Secretary. Good
18 morning, Mr. O'Hearn. Don't stand unless you wish to do
19 so. Make yourself comfortable. Would you like to start
20 off by speaking a little bit to your organization; telling
21 us what the Office of Valuation and Exchange may be? It
22 is described as a private research bureau, I notice. Tell
23 us a little bit of your own interest in the subject and
24 how you came to be interested.

25 We have certain questions we would like to put
26 to you later.

27 MR. O'HEARN: Mr. Chairman, and gentlemen, as
28 a director of a private research bureau, the Office of
29 Valuation and Exchange, I have for a period of thirty
30 years conducted at my own expense an intensive study of



1 matters relating particularly to taxation, banking,
2 accounting and monetary procedures. That is in
3 addition to some scientific research too.

4 Thirty years, that brings it back to the
5 depression days. Prior to that I went through the big
6 days of the twenties, as they call them. They were not
7 so big compared to now. I went through the panic in '29,
8 and the first part of the depression. Thirty years ago I
9 retired from the brokerage business and stocks and
10 commodities, investment securities.

11 I said rather than trying to make some money
12 for myself, I would take what capital I had available and
13 commence an investigation to see what caused the panic and
14 what caused the depression.

15 It was not very long until I found out it was
16 going to be a full-time job, so I had to abandon everything
17 else. I was not quite competent to take on my own personal
18 affairs and the public affairs too. I did not think it
19 was going to take this long, Mr. Chairman, or I probably
20 would never have started the thing.

21 I might have known that, because there has been
22 very little reform in our monetary system for many, many
23 years. Everything else has been reformed excepting
24 banking, you might say, and money. Why they resisted
25 reform, I don't know. That is just one of those things.

26 It was not very long in the thirties until the
27 President of the United States closed all the banks in
28 the United States, 20,000 of them and 5,000 of them never
29 re-opened. A friend of mine who was a director at that
30 time of a bank in the States --- there were two banks in



1 this town he was in and he did not belong to the right
2 political party at that time. President Roosevelt put in
3 some money into the Democratic bank, but he did not put
4 any in the Republican bank and my friend, who is a very
5 prominent surgeon, said I would like to get him on the
6 operating table.

7 I heard President Roosevelt, I was in Buffalo
8 in 1940, when he was getting or trying for his third term
9 and I was pretty close to him, as close as I am to you,
10 and he was speaking in an open car in front of the City
11 Hall.

12 We had been in the war for quite a while by
13 1940, and he said, in his friendly way, that if his dear
14 friends would put him in again he would guarantee to keep
15 the United States out of the war. Of course, it was only
16 a matter of six months or so after that they got into the
17 war.

18 In the thirties I forecast the war. I had
19 communicated with all of the old League of Nations, I think
20 there were 66 members. I asked them to make financial
21 reforms, I asked them to make reforms in trade matters and
22 prevent the coming struggle, but they wouldn't do anything,
23 and I forecast that they would have to go out of business,
24 eventually, if they did not do something. Those forecasts
25 came true.

26 During the war I couldn't do very much. I went
27 to Ottawa in 1940, when they started out to sell the
28 bonds. One of my boys was selling the bonds. I told him
29 you will be sorry. You will end up having to pay the
30 interest on those bonds. I took it up with the Finance



1 Department. I said at that time there was quite a bit of
2 money that was not accounted for, a matter of some
3 four billion dollars at that time and I said that before
4 they loaded any bonds on the people, they should bring
5 that money out and use that to finance the war, but they
6 told me no, they were going to carry on as in the past,
7 and I said well, I would take it up with the people or
8 the courts. They said well, if you cause us any trouble,
9 we will just intern you, so they blocked me off there
10 pretty well, you see, because I didn't want to be
11 interned.

12 I tried several things, some unsuccessfully,
13 some of them in bad form, but I was frustrated in every
14 way. The acting Prime Minister, I have forgotten his
15 name just now, he came here out of Vancouver, I think.
16 He was a veteran man. He said to me, O'Hearn, if you
17 want to get any of these reforms through, you had better
18 run for office yourself and put them in yourself. That
19 was kind of a bad thing, because I didn't belong to any
20 political party, but I thought the bank treated Toronto
21 like it did the Government, so I will run for Mayor.

22 I picked a hard guy, picked Bob Saunders.
23 They say I got the intellectual vote, anyway. I couldn't
24 make any other progress.

25 Mr. Justice Abbott, he was Minister of Finance
26 in the latter part of the Liberal Government, he wrote me
27 one day and said our files here go back with you until
28 1939. We know exactly what you want us to do and we are
29 not going to do it, so that closed that off.

30 Well, when Mr. St. Laurent was in the embarrassing



1 position, he was going to resign, I talked to him on the
2 phone that morning for quite a while and I said that he
3 should not leave the unfinished business over to the
4 Conservative Party. I said you will be giving Mr.
5 Diefenbaker a chance and loading it on to him. He said,
6 well, I am going over now, ten minutes to nine, I am
7 going over to tender the resignation of the Government.
8 I said you will be a forgotten man. You are doing a
9 foolish thing.

10 In 1954 --- prior to that, I had filed a brief
11 with the House of Commons Committee on Banking and
12 Commerce. They were investigating the financial situation
13 with regard to renewal of the charters in 1954, and I
14 spent over a three-month period; I went to Ottawa every
15 week at great inconvenience and expense to myself, because
16 that was just at the beginning of a great big movement in
17 securities and properties and everything, and I had to
18 deny myself participating in them. Everybody said you
19 are crazy to do that.

20 I attended, I think it was the twenty-ninth
21 session of that. I listened very carefully to the Bankers'
22 Association, the President, the Chairman, and the Finance
23 Department officials, Social Credit gave Mr. Maynard five
24 sittings on Social Credit. They promised me a hearing,
25 but they didn't give me a hearing. I spoke to the
26 Chairman, Mr. Croll, who is now Senator and he promised
27 me a hearing. When it came to the thing, he said well,
28 O'Hearn, Mr. Abbott won't let you have a hearing. The
29 bankers and the Finance Department won't let you have a
30 hearing. I said, well, I will see what I can do with the



1 Senate, so I saw Senator Hayden and he said, well, I am
2 the Chairman of the Senate Committee on Banking and
3 Commerce. He said we are different to the Commons. We
4 don't have to think of votes or public opinion or any-
5 thing like that. He said I will give you a hearing. I
6 was in Ottawa and he said just sit down and prepare a
7 brief, which I did. That went along. If I remember
8 correctly here, I submitted it on the 30th of June, have
9 to be renewed on the 1st of July or the banks couldn't
10 open, I guess. Anyway, on the last Saturday morning or
11 the Friday all the Presidents of the banks were all
12 around in this big room down there and the Senator,
13 Senator Hayden came over to me and said, O'Hearn, I must
14 apologize. I said why? He said I cannot give you a
15 hearing either. I said why? He said the officials of the
16 Finance Department and Mr. Abbott won't let me have a
17 hearing. I said, well, that is too bad.

18 Anyway, during that investigation Mr. Diefenbaker
19 did not take much part, but Mr. Fleming did take a part.
20 He was the financial critic and I spoke to him several
21 times. He said, well, O'Hearn, if we can get in power,
22 he said, I will consider your proposals and I will see
23 that proper changes are made. During the five years he
24 was in, he started off all right, but after a while I
25 could see I was losing and he didn't do very much to help
26 the situation except he said if we ever use your proposals,
27 your formula, we will see that you are compensated anyway.

28 He was sent down to the Monetary Fund. He was a
29 director of the Monetary Fund right up until recently.
30 I put a brief before the Bank of International Settlements



1 dealing with International Exchange, and that was quite
2 a brief. I see that the Chairman, the President died
3 recently, and I considered that he was a roadblock in
4 the matters of international exchange and international
5 trade. I hope his successor will be more open-minded.
6 Anyway, I had this brief before them and I got a letter
7 one day from the Secretary of the Social and Economic
8 Division of the United Nations and they said, well, they
9 thought that my brief was a contribution to help solve
10 the problems of the world, but he said that the present
11 management in charge of the fund, that there was very
12 little hope of them doing anything, and I wrote Mr.
13 Green and Mr. Green said, even in the last year he said --
14 I told him Mr. Fleming would not introduce the reform
15 in the annual meeting of the fund, and he said well, I
16 will do it, but he never did anything. The President of
17 the University before Mr. Green, Smith, he said that would
18 be one of the first things he would take up, but he had
19 an unfortunate experience too, so I couldn't do anything
20 with the Government or with the International Monetary
21 Fund.

22 One thing I must say, away back before that
23 with Mackenzie King, every time I would write him he would
24 say, he used a favorite term, he would say now, O'Hearn,
25 this comes under the purview of the Minister of Finance,
26 so he just passed the buck to them; it was Mr. Illsley
27 at that time, and it always struck me as funny, struck me
28 as a peculiar thing that these men that were in charge at
29 that time, every time they got finished with their job
30 they always got some kind of a reward. That struck me kind



1 of like --- Mr. Illsley was made a Judge. Mr. Abbott was
2 made a Justice of the Supreme Court of Canada, the
3 Chairman, Croll, he was a Senator. Salter Hayden was
4 made a Director of the Bank and I see that Mr. Fleming
5 was supposed to be given a judgeship, but he resigned,
6 so I guess he is no longer in the public eye.

7 I had kind of thought that that was not politi-
8 cal patronage, but it was kind of a reward for blocking
9 my hearing. I did not appreciate that, of course.

10 One thing I can say for Mr. Diefenbaker is this:
11 Now, I spoke to him when he was in Toronto here and I
12 wrote him just the same as I did Mr. St. Laurent and I
13 said Mr. St. Laurent passed the buck to you and gave you
14 a chance, but you have not taken advantage of the chance.
15 Now, you propose to pass the buck to Mr. Pearson, to give
16 him a chance. I suggested that you should not leave any
17 unfinished business, I said, particularly because you
18 appointed two Royal Commissions and I said that is
19 unfinished business. I said I don't think you should call
20 Parliament into session until you get some kind of a
21 report from these Commissions, and I think if there is
22 good for the public you should implement them. If you
23 gave a tax reduction, a substantial tax reduction, the
24 public would back you up. When you open Parliament I
25 think the other party would back you up, but I don't think
26 the Liberals or the other two parties would vote against a
27 substantial cut in taxation, but he wrote and told me just
28 the day he resigned, and he said he hoped that I would
29 understand there are reasons for it. He quoted
30 constitutional reasons, but I couldn't accept that. I think



1 probably I have covered everything that you probably want
2 to know.

3 THE CHAIRMAN: That is quite a story, Mr. O'Hearn.
4 I have not heard your story before and I am very interested
5 in it.

6 MR. O'HEARN: Well, if you wish now I will
7 read the summary into the record.

8 THE CHAIRMAN: No, you do not need to do that.
9 That is entered in the record. We have all read it.

10 MR. O'HEARN: Can I introduce an exhibit?
11 That was Exhibit No. 1. Can I introduce another exhibit
12 here now?

13 THE CHAIRMAN: By all means.

14 MR. O'HEARN: You have read the summary. At
15 this point then, in order to further stress the impact on
16 taxation, of the method employed by the Banking and
17 Finance Department officials, I beg to read into the record
18 and file as Exhibit No. 2, copy of a letter which I
19 directed to the new Prime Minister, Mr. Pearson. It's
20 an open letter to him. He has it on his desk. I will just
21 read it. It isn't very long.

22
23 ---

24
25
26 ---

27 ---

28
29
30 ---



B/ET/dpw 1

2 As you know, two Royal Commissions were
3 appointed by the Government, one to report on banking and
4 finance and the other to report on taxation. Both these
5 reports will eventually reach you for consideration, and
6 it is to be hoped that they will recommend beneficial solu-
7 tions to the financial and economic problems facing your
8 government and the Canadian people, and that you will
9 implement them in the public interest. In the meanwhile,
10 permit me to give you a summary of the Briefs we submitted
11 to the two Royal Commissions;

12 I have developed a Formula designed to enrich
13 your government and the people of Canada by enriching our
14 banks, so that they in turn may credit us for the increased
15 banking surplus that our Briefs envisage.

16 The need for enriching our banks arises from the
17 fact that in the course of their operations they bungled
18 their money-providing functions and cheated and impoverished
19 themselves to a total of over \$18 billions. To worsen
20 matters, by cheating themselves they also cheated Parlia-
21 ment and the public in a total equivalent to \$1,000 per
22 capita.

23 We find that the banks did this by foolishly mis-
24 placing bank debits and credits in recording their opera-
25 tions. In handling their customers' transactions, the
26 banks improperly charged billions in deposit debits against
27 customers' deposit balances in an unsuccessful attempt to
28 reduce their deposit liabilities. The debits we claim,
29 should instead have been recorded on the asset side of their
30 statements so as to report and provide themselves with
31 deposit assets. By mis-charging debits to their customers'



1 accounts, they over-charged and cheated their customers
2 accordingly.

3 By this illegal technique of mis-using bank
4 debits to simulate a reduction in deposit liabilities
5 instead of to provide deposit assets for themselves, they
6 foolishly cancelled and did away with the national stock
7 of money and cut our checking accounts to half the amounts
8 we deposited with them. By cutting the money supply of
9 the government and their other customers in half, the banks
10 took control of our National Economy from Parliament, but
11 in doing so they cut their own assets in half too, and they
12 fell victims too along with us of their own duplicity.

13 Because the banks and the government cheated
14 Parliament out of the money referred to, and because the
15 government failed to claim or replace the cancelled
16 deposits, it obviously had to get money by other means to
17 meet its payments. Hence, we find and charge that the
18 government needlessly and illegally over-collected a total
19 of over \$18 billions from the public. These over-collec-
20 tions would have been averted had the government paid its
21 way with the money made available to it by the money-
22 providing functions it permitted the banks to employ. More-
23 over, the government would still have the extra capital on
24 hand had the Finance Department Officials not paid it back
25 to the banks along with their loan repayments. They paid
26 it back to the banks illegally too because they paid it to
27 them without getting any consideration or compensation in
28 return.

29 In our Briefs, we submit a practical and
30 feasible Formula to overcome and remedy the foregoing evil



1 situation. For instance, we advance the proposition that
2 inasmuch as bank deposits make up our money supply or
3 stock of money, and that as money is always an asset, never
4 a liability as the banking and Finance Department Officials
5 claim and pretend, the deposits the banks got from their
6 customers should have been listed by them as deposit assets.

7 It's quite obvious that if deposits had been
8 included as assets by the banks as they received them from
9 their customers, the assets of the banks would now total
10 \$18 billions more than the combined totals they now report.
11 And this increased asset total would have provided a
12 corresponding banking surplus from their money-providing
13 operations. Moreover, if this available banking surplus
14 had been turned over to the government as it accrued to the
15 banks, the government statements would now show a surplus
16 of \$5 billions instead of the \$13 billion deficit currently
17 reported by the Minister of Finance. The taxpayers would,
18 of course, have benefited accordingly.

19 We are not raising any objections to taxation as
20 such, but we do strenuously object to the illegal levies
21 imposed on us by the governments and banks. The levies we
22 object to are not taxation in the ordinary sense of the
23 word. They are not levied to pay government expenses or
24 debts or to accumulate monetary reserves. Instead, they
25 are secret levies on our bank deposits, on our money supply.
26 Moreover, they didn't give us any consideration or compen-
27 sation in return. As to the money they illegally collected
28 from us, they cancelled and took it all out of circulation
29 without the public's knowledge or consent. Their levies
30 and collections were not taxation, rather they were



1 extortions, and left us without the means to meet maturing
2 public and private debts and pay for the cost of goods and
3 services we produce. These are the kind of levies that
4 must be halted and the illegal collections and cancelled
5 deposits must be made good in the public interest. I
6 say the word "must," you know, but I guess it should be
7 "should."

8 Our Formula therefor calls on the banks to start
9 listing deposits as assets, as well as listing them as
10 deposit liabilities. If they will but do so, their assets
11 as we've said, will eventually increase to more than double
12 the amount of assets they now report. If our Formula to
13 increase banking assets is implemented, it will provide a
14 huge banking surplus, and this new surplus will permit the
15 banks to credit the proceeds to the government, all without
16 further cost to them or anybody else.

17 This huge banking surplus which we find is
18 presently available for the taking, arose as we've stated,
19 from the money-providing function which is the exclusive
20 privilege of Parliament, but which was in actual practice
21 vacated by Parliament in favor of the banks. This secret
22 banking potential has never yet been used or reported,
23 though it is more and more required to provide the capital
24 we so badly need to meet the public debt, to reduce living
25 and productive costs for competitive purposes, and to also
26 enable us to purchase and pay for all the goods and
27 services we produce. That this available banking surplus
28 should have been long since turned over to Parliament to
29 comply with our National Charter is obvious.

30 The foregoing supports our claim that the deficit



1 in our Economy is in the banking system too, and not in the
2 governmental accounts alone as the banking and Finance
3 Department Officials mis-lead the public to believe. If
4 our money supply were to be reported as an asset by the
5 banks, or as a national asset by the government, the phony
6 deficit reported in your government accounts by the Finance
7 Department Officials would be changed to a surplus, and the
8 hidden deficit in the banking resources would be changed to
9 a surplus too, all without further cost to the banks or
10 anybody else. We obviously, can't indefinitely operate our
11 national Economy on a cash deficit basis with impunity.

12 In our Submissions to the Royal Commissions, we
13 deemed it necessary to charge that the Brief submitted by
14 the Canadian Bankers' Association to the Banking Commis-
15 sioners was grossly incorrect, and was intended to deceive
16 the Royal Commissioners and the Canadian people. We further-
17 more charged that they did this in order to get their
18 Charter renewals railroaded through Parliament in 1964 just
19 like the 1954 Charter renewals were railroaded through
20 Parliament by collusion and fraud.

21 It would be utmost folly on the part of the
22 Canadian people to longer submit to the illegal money
23 procedures now enforced on them by the unlawful operations
24 of the banking and Finance Department Officials. Every
25 means should be taken to avert in 1964 a further fraud on
26 Parliament and the public. A full and complete accounting
27 of the \$36 billions the government and people of Canada
28 deposited with the banks during the past year is now called
29 for. The logical thing for your government and the banks
30 to do under the circumstances, would be to implement the



1 Formula we present in our Briefs.

2 Reports by the two Royal Commissions on Banking
3 and Taxation should be called for at the earliest possible
4 date due to the urgent financial and economic problems
5 calling for quick solution. If the bankers for any reason,
6 fail to start providing Parliament with the \$18 billions it
7 is entitled to as the money is needed for public purposes,
8 then Parliament should curtail the banking Charters and
9 take over the money-providing function itself in the public
10 interest. Obviously, the deposit assets cancelled by the
11 banks should be restored and the proceeds turned over to
12 Parliament as needed. Nothing less will suffice, and
13 nothing less will save us from the penalties threatening
14 us for failing to safeguard our money supply.

15 The first task of the new Parliament should be
16 to quickly implement our Formula. Hundreds of millions of
17 dollars could be raised in the first week without cost to
18 the banks and without tax levies, bond sales or printing
19 any money. Every taxpayer would benefit accordingly.
20 Hence, prompt action by Parliament is called for in the
21 public interest.

22 This open letter is written and released in the
23 public interest. That is what I file.

24 THE SECRETARY: That will be Exhibit 47. Mr.
25 Chairman.

26

27 --- EXHIBIT NO. 47: An Open Letter, filed by Frank O'Hearn.

28

29 THE CHAIRMAN: Thank you, Mr. O'Hearn. What is
30 the date of that letter?



1 MR. O'HEARN: May 1st.

2 THE SECRETARY: May 1st, 1963.

3 MR. O'HEARN: I will leave some copies of that
4 letter, Mr. Bennett, if you wish. The Prime Minister has
5 that on his desk now. It may be that the Commissioners
6 would like a specific instance of just how over-collections
7 of public funds are made by the banks. If you wish, I will
8 file a specific instance here. It is a record of a loan
9 account I had myself with the bank.

10 THE CHAIRMAN: I think that would be helpful.

11 MR. O'HEARN: Would you like to file that?

12 THE CHAIRMAN: Yes, indeed.

13 THE SECRETARY: That will be Exhibit 48.

14

15 --- EXHIBIT NO. 48: Record of loan account submitted by
16 Frank O'Hearn.

17 MR. O'HEARN: I only have one copy. It is only
18 a very short statement. In commenting on this I would say
19 that back in 1958 I borrowed \$11,000 from my bank, and, of
20 course, that is all I owed them. The account, according to
21 my records, which are correct, of course, or I wouldn't put
22 them in if they were not; instead of collecting only
23 \$11,000 from me, the bank collected \$21,000 from me, and
24 it short-changed me \$1,000 in another way, so that I am
25 out \$11,000 on the deal.

26 I made \$10,000 in cash payments to the bank, and
27 I had them transfer \$2,000 from my savings account, so
28 that was \$12,000, and I overpaid them \$1,000, and that over-
29 payment to the bank changed my loan account from a debit
30



1 position to a credit position. However, they won't give
2 me the thousand dollars.

3 Months after I had paid them the \$12,000 the
4 bank transferred \$9,000 from my savings account one day,
5 and in taking the matter up with them, I said, "What are
6 you doing that for?" and they said, "Well, you still owe
2 7 us a balance of \$9,000." I said, "Oh, no, months ago I
8 not only paid off the loan but I overpaid you \$1,000."
9 They said, "You still owe us \$9,000." I said, "I got the
10 money from my brokers and I owe it to the brokers. I
11 cannot possibly owe it to the brokers and to the bank, too.
12 I admit the debt to the brokers when they bought the secu-
13 rity and paid off my loan, but I do not admit I owe you,
14 too. I could not be indebted to both at one and the same
15 time."

16 I feel I have a claim for legal action there
17 against the bank, but I have not done that yet. It is a
18 difficult thing to do. It is hard to get a lawyer. It is
19 hard to get the courts to consider taking the case. They
20 figure, well, it is a government matter. The bank says,
21 "That is the way we do it, and we will do it that way."

22 I said, "I must get that \$11,000 back. I have to
23 get that \$11,000 back."

24 Now, the difference between me and the Government,
25 the Finance Department, is that they do not object to over-
26 paying the bank. They collect the money from you, the tax-
27 payers, and they pay it to the bank and it is taken out of
28 circulation and the Government does that knowingly, and they
29 do not object to it. Therefore, I figure they are not
30 carrying out their obligations to the public. I won't



1 consent to that bank taking \$11,000 more from me. If I
2 have to take it to the courts, well, I will have to do
3 that. I think probably your investigation will lead to a
4 remedy of the situation.

5 THE CHAIRMAN: The difference between you and
6 the bank, they call the charge interest.

7 MR. O'HEARN: They call it what?

8 THE CHAIRMAN: They call the charge they made
9 against you interest.

10 MR. O'HEARN: Oh, no, no. That is just the prin-
11 cipal. They collected a couple of thousand dollars in
12 interest from me, but they did not allow me any interest on
13 my current account.

14 THE CHAIRMAN: The amount that the bank trans-
15 ferred from your savings account, \$9,000, is charged
16 against this because of the overdraft in the savings
17 account, or did you have money ---

18 MR. O'HEARN: I had money, and I figured that
19 the bank owed me as much after they made the transfer as
20 they owed me before they made the transfer. I claim that
21 the transfer they made was invalid because, according to
22 the law as explained to me by counsel, if my accounts were
23 in a debit position it would be legal for them to make the
24 transfer, but all my accounts were in a credit position.
25 I had balances in my favour in my current account and my
26 savings account and my loan account so I consider that was
27 an invalid transfer.

28 Now, if I have a credit in my loan account for
29 over-payments, then the Government must have billions of
30 dollars of credits in their loan accounts that the banks



1 owe them. The same principle exactly; they treat my
2 accounts the same as that. I think the Government ought
3 to start drawing those down now for the benefit of the
4 taxpayers, and they could declare a tax holiday.

5 I think the advantages from my proposals are
6 obvious. I do not need to detail them here, but I think
7 we should have a tax holiday. I think the Government
8 should call a draw-down on those credits. They are there,
9 and they have been written off and they should not be
10 written off, and they can be replaced. If they would do
11 that, it would remove a constant threat of tax levy to
12 repay public debt. Without these funds we cannot repay the
13 public debt. We have trouble paying the carrying charges
14 on the public debt.

15 One way my formula could be implemented, and I
16 think you would be interested in hearing this, would be to
17 have the banks list deposits as assets as I have stated,
18 and have the Government paper such as bonds, treasury bills,
19 treasury notes and cheques accepted for deposit by the
20 banks and held by them in lieu of money as collateral to
21 the new deposit asset accounts I propose be set up.

22 Another way my formula could be used to the
23 benefit of the taxpayer would be to provide for payment
24 of the public debt of all levels of government without
25 cost to the Government or banks. This plan calls for the
26 Government to direct the chartered banks to accept govern-
27 ment bonds for deposit, and to hold them as deposit assets
28 in lieu of government money.

29 The Government would also instruct the Bank of
30 Canada to accept for deposit from the Chartered Banks all



1 such bonds that they had previously accepted for deposit
2 from their customers should the Chartered Banks require
3 more Bank of Canada bills for their operations. In such
4 event, the Bank of Canada would be instructed to accept
5 and carry such bonds as deposit assets also in lieu of
6 government money.

7 If that were done, all government bonds or other
8 government paper accepted for deposit would be marked
9 "accepted for deposit in lieu of cash," and held along with
10 other government paper as deposit assets in lieu of govern-
11 ment money, all without cost to the Government.

12 There was a two-hundred million dollar one-year
13 Treasury note bill issued the other day and some insurance
14 company picked it up. It was due in a year. If I had
15 anything to say about it, I would tell the insurance
16 company to deposit in the bank, and the bank would credit
17 their account, and then I would tell the bank to accept
18 that government paper for deposit and carry this as a
19 deposit asset, only to mark the paper as having been
20 accepted for deposit in lieu of money.

21
22
23
24
25
26
27
28
29
30



C/PB/ss 1

2 This new use of Government paper in lieu of
3 taxation would relieve the taxpayers accordingly dollar
4 for dollar, that is if they accepted the maturing
5 \$2,000,000.00 bond today and that was paid without cost
6 then the taxpayers might say we are meeting our debt.
7 We are not going to try and repudiate it or leave it to
8 some future generations, because as a matter of fact there
9 is no future generations. We have all our generations
10 here. The young people now growing up, they cannot pay
11 the public debt unless we leave the money to them to pay
12 it. The way it is going now, the forecast, it is quite
13 possible the generation we have now will never have a
14 generation of their own. The way it is now I feel that
15 before we in the western world will see our economy
16 collapse and our bonds and debts repudiated and every-
17 thing dragged down that we will resort, maybe to dropping
18 the bombs or something like that. People do crazy things
19 rather than make a change. They will blow everything up.
20 I think it is time for a change.

21 I really think in view of what I have submitted
22 to the Commission that you would be justified in altering
23 your itinerary. I think your present schedule of hearings
24 could be postponed indefinitely and in its place the
25 Commission should take steps to confirm my claim, call on
26 the Banking and Finance Department bookkeepers. If the
27 Commission then finds that this new source of revenue I
28 have opened up to the Government is really available to
29 the Government in lieu of tax levies, then it could make a
30 preliminary report advising the Government to go and get
these revenues in lieu of taxation. You could save the



1 taxpayers. After that you could take your time in deciding
2 who is going to pay the next tax levies, whether it is
3 going to be on liquor or cigarettes or baby shoes or
4 anything like that. I really think the thing is getting
5 in a serious way.

6 I heard a new member of Parliament, I think a
7 new Cabinet Minister the other day talking about the
8 secession movement in Quebec. He says it is not only
9 possible, but probable. He says if Quebec secedes then
10 the Maritimes will probably secede and the Prairies will
11 probably want to join up with the States. That has
12 nothing to do with atomic warfare or dropping the bomb,
13 but apparently we have problems. I really think this
14 should be done in the present session of Parliament. They
15 are short of money down there. If the Commission could
16 find that the Government has funds coming through the banks,
17 a new source of revenue they can spend in lieu of taxation
18 and it wouldn't cost the banks anything to set up these
19 deposits. It wouldn't cost anything. They would just
20 credit the Government and debit the deposit account,
21 because Government paper is then issued, and that would solve
22 the budgetary problem. That would provide Parliament
23 with the money it needs. I think that should be done in
24 the present session of Parliament. In my letter to the
25 Prime Minister I suggest that that should be done. I
26 think that is the best thing this Commission could do for
27 the taxpayers. I think they would go down in history if
28 they were to do that.

29 THE CHAIRMAN: Thank you indeed, Mr. O'Hearn.
30 What you suggest is a most attractive proposition indeed,



1 and certainly it would be very satisfying to find
2 eighteen billion dollars to pay off the national debt and
3 declare a tax holiday. It would seem to me that your
4 submission is directed primarily towards a monetary
5 solution, and if that is the case it is somewhat outside
6 of our terms of reference. Perhaps that should not stop
7 us if this is the answer. Perhaps we should be big enough
8 to step outside of our terms of reference. I would
9 think the first body to whom you should direct this
10 would be the Royal Commission on Banking. It would seem
11 to me that they should examine this most carefully and
12 come to a decision as to the merits of what you have
13 said. We have some competence in the area, but it is
14 not primarily ours, I don't believe. If the Royal
15 Commission on Banking were to confirm your findings to us,
16 it would be the most joyful news we could receive. I
17 would be delighted if we were able to take all the time
18 in the world, because there was no further tax for the
19 next two years and consider how, at the end of that time
20 we should proceed with a new system. We have economists
21 on our staff and we have accountants on our staff and we
22 will certainly direct your submission to those persons
23 who we believe are skilled in this sort of thing. We
24 will submit to them your evidence. I assure you that if
25 we find that this does come within our job, we will
26 proceed to pursue it vigorously. At the same time my own
27 view is that it doesn't and that your case really should
28 be made with the Banking Commission. I don't think we
29 should all consider the same thing. It seems to me to be
30 untidy. The Banking Commission is a most competent body



1 and I would have every confidence in them to do this.

2 MR. O'HEARN: Mr. Chairman, a year and a half
3 ago I filed a brief with the Banking Commission and I
4 filed some supplementary statements and documents and
5 they have assured me that they are considering it. The
6 brief to Taxation mainly was to show you the impact on
7 taxation of the banking procedures, the money procedures.
8 If that doesn't come within your purview, of course, we
9 will have to wait for the Banking Commission. In the
10 meantime I still feel regardless of what you have said
11 that you could make history for this Commission by suggest-
12 ing to the Government, and you don't have to make a
13 preliminary report, a letter would be sufficient, that if
14 the Government has access to any other source of revenue
15 other than taxation they should get that money first and
16 declare a tax holiday.

17 THE CHAIRMAN: Thank you very much, sir. We
18 will make sure that we are not overlooking anything that
19 the Banking Commission has received from you, and their
20 deliberations on it. I will take it upon myself to inquire.
21 If there is anything for us along this line, we will
22 pick it up and pursue it vigorously.

23 MR. O'HEARN: Mr. Chairman, there is this about
24 Commissions, as you know, the Government and the political
25 parties do not always implement the reports of the
26 Commissions, unfortunately. Sometimes they are filed away.
27 I have no assurance I will even be alive when the Banking
28 Commission makes their report or, by the time you get your
29 report in, so I have taken this opportunity to have it
30 on record so if I am not here somebody will move on.



1 THE CHAIRMAN: We are very grateful to you,
2 sir, for appearing before us today and giving us the
3 benefit of your reports which we appreciate, and which I
4 assure you we will consider further. Thank you very much.

5 We we will stand down for ten minutes.

6
7 ---Adjournment.

8
9 THE CHAIRMAN: Mr. Secretary, would you introduce
10 our visitor?

11 THE SECRETARY: Mr. Chairman, we have with us
12 Mr. J.W. McClelland, who is senior accountant and tax
13 manager of Sunbeam Corporation of Canada Limited. Sunbeam
14 Corporation have submitted a brief which I would like to
15 enter into the record as Exhibit No. 49.

16
17 ---EXHIBIT NO. 49: Submission of Sunbeam Corpora-
18 tion of Canada Limited.

19 SUBMISSION OF
20
21 SUNBEAM CORPORATION OF CANADA
22 LIMITED

23 APPEARANCES:

24 Mr. J.W. McClelland

25 THE CHAIRMAN: Thank you. Good morning, Mr.
26 McClelland.

27 MR. McCLELLAND: Good morning, ladies and gentle-
28 men.

29 THE CHAIRMAN: Would you like to speak to your
30 submission. We have had it and looked at it. In fact we



1 have all read it and we have a few questions. Sometimes
2 people who appear before us wish to add or detract from
3 the submissions. That is your privilege if you wish to do
4 so, otherwise we can proceed to ask the questions.

5 MR. McCLELLAND: I don't think there is anything
6 I wish to add or to detract. I think we felt we had
7 a finished period where the figures were available which
8 we felt would help the Commission. It is completed. There
9 is no further appeal from it. With these figures at hand
10 so close to the Commission's hearing we felt that it
11 could be of value to you.

12 THE CHAIRMAN: No doubt they are. Thank you.
13 Supposing we start right at the beginning and ask you
14 questions as we go through it. It isn't very long. You
15 suggest in your first recommendation there should be a
16 period of only four months between the year end and the
17 date for filing returns. I am curious as to whether that
18 would be generally acceptable by industry. I don't know.
2 19 Have you discussed it with other people?

20 MR. McCLELLAND: Not particularly. I think our
21 recommendations primarily are food for thought. I don't
22 see any problem myself to four months. I think most of
23 us in industry have our year-ends cleared up within a
24 month at the outside, and I cannot for the life of me
25 see with our modern facilities available to us why not.
26 The larger corporations probably can do it in less than
27 we can with their I.B.M. I see no problem.

28 THE CHAIRMAN: My experience is that the speed
29 of closing at the year end is really inversely to the
30 size of the corporation, the larger corporations do it



1 fastest.

2 MR. McCLELLAND: Quite true.

3 THE CHAIRMAN: There are many little businesses
4 who would probably find difficulty in getting it within
5 six months. I don't know, but I think they would.

6 COMMISSIONER WALLS: Along that line
7 while you say it should be speeded up you yourselves
8 took the full six months to file your own return.

9 MR. McCLELLAND: We always do take the six
10 months. It is not necessary. It is not necessary at all.
11 I am free now. I could go right ahead now to submit our
12 tax for 1963. Unfortunately with our February year end
13 we find by the time the six months rolls around there are
14 some tax changes which affect the first two months of the
15 year.

16 COMMISSIONER WALLS: Just one other thing.
17 You might be basing part of your case on the United States
18 experience of two and a half months. I understand that
19 the two and a half months requires only that you file a
20 form that you are going to file a return. After the two
21 and a half months there is an additional three months for
22 them to file their return, so, in fact they get five and
23 a half months as against our six months.

24 MR. McCLELLAND: No, I didn't have that in mind
25 at all. You see the larger corporations are better pre-
26 pared to file these returns. Actually the larger corpora-
27 tions file a great volume compared to a small corporation.
28 In most of the small companies you will find capital gains
29 allowance and their statement reflects taxable income,
30 rather than having additional calculations.



1 THE CHAIRMAN: I think that is true. They have
2 much more simple financial returns, but the small companies
3 seem to experience difficulty in simply closing their
4 books, very often. It is simply lack of skill. They
5 haven't got the same degree of talent in their accounting
6 staffs.

7 MR. McCLELLAND: They are relying primarily on
8 their auditor or their public accountant to assist them.
9 That is true.

10 COMMISSIONER BEAUVAIS: Mr. McClelland, what
11 benefit do you see in shortening this period from six
12 months to four months?

13 MR. McCLELLAND: Well, I think we are of the
14 opinion that the whole process of audit and assessment in
15 this day and age should be speeded up. We are at the
16 extreme of ten years. I think the whole thing needs to
17 be speeded up. It is part and parcel, perhaps, of
18 obtaining pre-rulings.

19 COMMISSIONER BEAUVAIS: My experience shows that
20 the auditors sometimes rely on these two months to prepare
21 the income returns of their clients, because there is a
22 rush at that time, especially for corporations having their
23 year end at the end of December.

24 MR. McCLELLAND: I can't answer that for you.
25 Some of the gentlemen who have worked in the larger audit
26 companies and who have a good many December 31st year-
27 ends will be able to tell you better than I just how
28 soon that rush was over. That is probably true.

29 COMMISSIONER PERRY: I wonder if it would be
30 worth pointing out that the law is not in terms that



1 say the return must be filed precisely six months after
2 the end of the year, but it is within six months. If you
3 are prepared to do so, you can file the return a day
4 after the end of the year.

5 MR. McCLELLAND: But isn't it true that every-
6 body takes the extreme extent of the law?

7 COMMISSIONER PERRY: Well, I don't know.

8 MR. McCLELLAND: I think, sir, if you check with
9 the Income Tax Department you will find most of the
10 returns for December 31st year-ends will arrive in June.

11 THE CHAIRMAN: I think I would agree with that.
12 They will have them made up in advance and very often hold
13 them till the end.

14 MR. McCLELLAND: Pending changes that may take
15 place.

16 THE CHAIRMAN: Some may send them in a couple of
17 weeks early and some even a month early, but generally
18 speaking I think you are correct. They tend to hold them
19 up.

20 COMMISSIONER PERRY: A supplementary point, Mr.
21 Chairman, would you visualize the installment payment
22 series being shifted forward a couple of months so that
23 the new payment series would start five months after the
24 end of your year, or would you leave the installment
25 payments as they are now?

26 MR. McCLELLAND: I didn't think of that one, to
27 tell you the truth.

28 COMMISSIONER PERRY: As you know, the six months
29 terminates with the filing of the return.

30 MR. McCLELLAND: I see no reason why not. Take



1 Ontario and Quebec, they are paying quarterly in advance.
2 Your last payment for Ontario and Quebec is two months
3 after the end of the fiscal year, a month and a half or
4 two months. The first payment is in advance during the
5 fiscal year.

6 COMMISSIONER PERRY: Ultimately you would get,
7 you always get twelve months, twelve monthly payments to
8 make. You would be paying over a different twelve months,
9 ultimately.

10 MR. McCLELLAND: That is right, than at the
11 present time. I see no great problem with this one way or
12 the other.

13 THE CHAIRMAN: It would take a little more money
14 out of the taxpayers in the first year, I presume.

15 MR. McCLELLAND: It would. It would put a
16 little more money in the treasury.

17
18
19
20
21
22
23
24
25
26
27
28
29
30



D/MR/dpw 1

2 Of course, once you take it out, it is out
3 virtually permanently; that amount of money is out perma-
4 nently.

5 COMMISSIONER WALLS: Really, most of your
6 complaints - I presume that is what we will be coming to
7 now - is dealing with the delay when you appeal?

8 MR. McCLELLAND: That is right.

9 THE CHAIRMAN: Shall we move on to Recommendation
10 No. 2? Something be done to speed up final assessment
11 which is now any time within the four-year period.

12 MR. McCLELLAND: That is right.

13 THE CHAIRMAN: Certainly, we have all heard this
14 complaint before, and it is being studied. I think that
15 the intention of an interim assessment was not originally
16 thought to extend the period over four years. I don't
17 think you really come down precisely to the recommendation
18 on this.

19 MR. McCLELLAND: Not really, because again it
20 ties in very closely with how much you obtain by pre-rulings.
21 If you obtain pre-rulings, perhaps it is not as necessary
22 that you know your exact status on a pre-ruling, but you
23 have your assessment finalized as quickly.

24 Again, we are dealing in an area here of admini-
25 strative capabilities. Is the audit staff capable of doing
26 this? Is this, from an administrative point of view,
27 feasible? Again, actually the Tax Department, since our
28 appeal has been finalized last December, has been exceedingly
29 good in getting out the assessments.

30 THE CHAIRMAN: Sorry, I did not catch that.

MR. McCLELLAND: Since our appeal has been



1 finalized last December, the Tax Department has been
2 quite prompt about issuing the assessments. It is the
3 stage where they have the opportunity of coming back on
4 somebody four years from the original assessment, in any
5 case, regardless of whether or not there is fraud.

6 COMMISSIONER PERRY: I wonder if you could
7 explain a little more fully the meaning of the second
8 sentence in paragraph 2 of your recommendations which
9 reads:

10 "It is deemed necessary to maintain the four-
11 year re-appraisal period, and of course the
12 assessment would be subject to appeal."

13 Is this an expression of your thought or ---

14 MR. McCLELLAND: Possibly.

15 COMMISSIONER PERRY: --- is this a statement
16 of what the authorities feel is necessary now?

17 MR. McCLELLAND: That is primarily my thought,
18 I presume. I say it is. I think in many regards that
19 we have to make up our mind, to a great degree, as to
20 whether we are going to accept some loss of tax revenue
21 and make the assessment final, or hold with a four-year
22 re-appraisal period and pick up any lost revenue that may
23 be uncovered in that time.

24 COMMISSIONER PERRY: You think of these as
25 alternatives, then?

26 MR. McCLELLAND: Primarily.

27 THE CHAIRMAN: Would you think that the four
28 years referred to in Section 46 should be reduced to some
29 other period?

30 MR. McCLELLAND: I would like to see figures



1 really from the Tax Department on how much they pick up on
2 re-assessments that could not have been picked up on a good
3 first assessment.

4 This would be the criteria of how much tax
5 revenue we might lose.

6 THE CHAIRMAN: Four years does seem to be a
7 rather long period for those cases which are not concerned
8 with fraud.

9 MR. McCLELLAND: It would seem to be. You
10 always have the opportunity of re-opening if there is
11 fraud. I would think in the speed of modern business now
12 that a person has to know pretty well day-to-day, year-to-
13 year, as to his tax position. The tax rate is so high
14 that you have a 50% parity; if you start taking any more
15 than 50% when you are calculating it, it can get rough.

16 COMMISSIONER WALLS: With the limitation of
17 staff, to give a thorough assessment immediately, or as
18 soon as possible on a first assessment would, in the long
19 run, take just about as long as it takes at the present
20 time on a quick assessment and just going over the cases
21 that appear to have some merit for re-assessment.

22 If you take every case and give the thorough
23 inspection that you envisage, it would delay the whole
24 machinery very considerably, wouldn't it?

25 MR. McCLELLAND: It is important from the point
26 of how much lost revenue might appear. Again, when you
27 say they do a quick assessment and do a re-appraisal of
28 cases, it is my impression at the moment that the Tax
29 Department, and this is not to their discredit at all, in
30 re-assessing, are appraising their assessors on how much



1 additional tax they are recovering as a means of whether
2 their operation is efficient or not, as one method of
3 appraising the situation. You only have as many assessors
4 that are capable of bringing in additional tax as may be
5 required but at the same time they are only hitting - let
6 us say they are only examining each file once every three,
7 or once every four, years in detail, knowing that they can
8 go back and re-open. Is that fair to the taxpayer?

9 It may be very economical as far as the Depart-
10 ment is concerned, as far as the efficient operation of
11 our government is concerned, but is this fair to the tax-
12 payer and how much tax would we lose?

13 THE CHAIRMAN: Moving to your third point, which
14 is your experience with the Exchequer Court and Supreme
15 Court and the delays that you have found there, I think
16 we would like to ask you one or two questions on that.

17 You set out tables to show just how you proceeded
18 through these courts. Did you find that the Income Tax
19 Appeal Board performed expeditiously? Well, not particu-
20 larly; I see by Item No. 4 of Exhibit A it seems to have
21 taken a year-and-a-half between notice of objection and the
22 hearing.

23 MR. McCLELLAND: That is right. There were many
24 companies at this particular time who had similar problems.
25 We had no way of knowing why the delay would take place,
26 whether it was volume or whether they were very reluctant
27 to bring down a decision too quickly.

28 THE CHAIRMAN: Your paragraph 3 has not made
29 reference to the Income Tax Appeal Board. Would the
30 reason for that be you are satisfied with the way they



1 dealt with it or should they not, like the other courts,
2 be endowed with sufficient funds and personnel, et cetera?

3 MR. McCLELLAND: I think the same thing applies.

4 THE CHAIRMAN: I would have thought so from
5 your experience.

6 MR. McCLELLAND: I think so. I think if we are
7 going to have an Income Tax Appeal Board it must operate
8 with sufficient personnel quickly and expeditiously.

9 COMMISSIONER GRANT: I think, Mr. Chairman,
10 that No. 3 mentions: to hear and decide upon cases
11 within a reasonable length of time. The hearing, of course,
12 Mr. McClelland, is one thing and the decision is another,
13 isn't it?

14 MR. McCLELLAND: This is quite true.

15 COMMISSIONER GRANT: There does not seem to be,
16 in your particular case, any undue delay in the decision
17 being handed down after the hearing?

18 MR. McCLELLAND: Not too much, no.

19 COMMISSIONER GRANT: So perhaps you have not,
20 from your own experience, any serious objection on that
21 score.

22 MR. McCLELLAND: Not to the decision being handed
23 down, no. The decision came down quite quickly, actually.

24 THE CHAIRMAN: They did in the Exchequer Court,
25 too.

26 MR. McCLELLAND: Yes.

27 THE CHAIRMAN: One month.

28 MR. McCLELLAND: The Supreme Court was relatively
29 fast, too.

30 COMMISSIONER GRANT: You were not held up in any



1 of your decisions?

2 MR. McCLELLAND: We were not held up in any of
3 our decisions at all. Actually, it was the hearing that
4 took so long.

5 THE CHAIRMAN: And that applies to all three
6 courts?

7 MR. McCLELLAND: Yes.

8 THE CHAIRMAN: Did you start off new in the
9 Exchequer Court? Was that an appeal from the Board?
10 There is a choice, I believe, under the law.

11 MR. McCLELLAND: We did not appeal to the
12 Exchequer Court, actually. The Income Tax Department
13 appealed to the Exchequer Court and I believe that it
14 started off new.

15 COMMISSIONER WALLS: Their decision was quite
16 quick. The hearing was held in January and the decision
17 was handed down within a month.

18 MR. McCLELLAND: Yes. There does not seem to be,
19 as far as they are concerned - even the Supreme Court -
20 there did not seem to be any great problem with the law.

21 COMMISSIONER WALLS: Your major delay was by
22 the Tax Appeal Board from the time of your application
23 until they were prepared to hold the hearing?

24 MR. McCLELLAND: That was a good portion of the
25 delay.

26 COMMISSIONER WALLS: It was a year-and-a-half
27 out of seven years.

28 MR. McCLELLAND: Yes. You have got a good deal
29 of time between the Income Tax Appeal Board decision and the
30 Exchequer Court decision.



1 COMMISSIONER WALLS: Yes.

2 MR. McCLELLAND: This is a considerable length
3 of time there. The Supreme Court actually in relative
4 fact acted relatively quickly.

5 COMMISSIONER WALLS: That was before the tax
6 authorities decided whether they were going to take it to
7 the Exchequer Court, wasn't it? What I am trying to get
8 at is I think you mention some place there is need for
9 increased staff and also increased staff at the Exchequer
10 Court level but it looks to me that the delay was with the
11 tax authorities and not with the courts.

12 MR. McCLELLAND: Mind you, the Income Tax Appeal
13 Board has to file their appeal within a certain length of
14 time. Now, from the time that they have to appeal it to
15 the Exchequer Court and the Exchequer Court hears it,
16 whose delay is that? Is that the delay in the presentation
17 of the case to the Exchequer Court or is that the Exchequer
18 Court not having enough time to hear the case?

19 COMMISSIONER WALLS: I see.

20 MR. McCLELLAND: I am not sure.

21 THE CHAIRMAN: I imagine it is the delay in the
22 docket.

23 COMMISSIONER WALLS: I guess you are right.

24 MR. McCLELLAND: The documentation of the case.

25 THE CHAIRMAN: I would think so, in the Exchequer
26 Court.

27 MR. McCLELLAND: This could well be.

28 COMMISSIONER GRANT: First of all, under the
29 rules you have a certain length of time in which to file
30 a notice of appeal.



1 MR. McCLELLAND: That is right.

2 COMMISSIONER GRANT: And this varies from court
3 to court, but usually within three months. Once the
4 notice of appeal is filed, then there is a lengthy proce-
5 dure in getting your factum printed and your pleadings in
6 order. There is always a delay there, and then once the
7 case is ready to be set down - it can't be set down until
8 it is ready to be set down - once it is ready to be set
9 down, it depends on the calendar.

10 MR. McCLELLAND: The calendar needs to be set up.
11 I just brought with me a tax service that we use and the
12 appeals pending a hearing - this is as of April 5th -
13 indicates that the Supreme Court has to hear hearings which
14 the appeal was filed - the date of filing was from 1957.
15 The Exchequer Court has to review hearings with appeals
16 that were filed in 1958.

17 I am not too sure as to whether this is the
18 fault of the people filing these briefs or whether it is
19 that the Exchequer Court has just not the personnel.

20 COMMISSIONER GRANT: All you are sure of ---

21 MR. McCLELLAND: It took us ten years.

22 COMMISSIONER GRANT: --- is it is most unsatis-
23 factory from the point of view of taxation?

24 MR. McCLELLAND: That is right.

25 THE CHAIRMAN: I think we all share your view.
26 Ten years is too long to determine what your liability is
27 under the Income Tax Act. You can be sure that we will
28 take a look at the procedures in the courts and try and
29 make up our minds as to the reasons for the delay; what
30 the cost would be to speed matters up and whether there



1 are any modifications which ought to be made in the proce-
2 dures to promote efficiency and certainty.

3 COMMISSIONER WALLS: There is one more question
4 I would like to ask. Have you given any thought to a
5 recommendation of setting up a specific tax court to
6 handle nothing but tax cases, and if such a court were set
7 up, do you believe that you and others would accept their
8 decision as final?

9 THE CHAIRMAN: You mean without a right of
10 appeal?

11 COMMISSIONER WALLS: That is right.

12 MR. McCLELLAND: I would doubt it very much.
13 I think, in spite of the fact that the due process of the
14 law takes ten years, I think most of us would like to feel
15 from whatever decision is handed down there is at least
16 one more appeal to be had.

17 COMMISSIONER GRANT: I think you are, Mr.
18 McClelland, arguing from the particular to the general
19 when you say the due process of the law takes ten years.

20 MR. McCLELLAND: This is true.

21 THE CHAIRMAN: Thank you very much indeed for
22 telling us your story, Mr. McClelland, and alerting us to
23 this particular difficulty. I can assure you we will
24 continue to look at it.

25 MR. McCLELLAND: The pleasure is all mine.

26 THE CHAIRMAN: Is there anything else this
27 morning?

28 THE SECRETARY: I just wish to enter into the
29 record, Mr. Chairman, the submission which was presented
30 by the Sudbury and District Municipal Association. This



1 brief arrived in the office in Ottawa on March 1st.

2 I would like to enter it into the record on
3 behalf of the Association as Exhibit No. 50.

4
5 --- EXHIBIT NO. 50: Submission of The Sudbury and District
6 Municipal Association.

7 THE SECRETARY: That is all, sir.

8 THE CHAIRMAN: Thank you very much. This hearing
9 is completed. Our next hearing is at 9.30 tomorrow
10 morning.

11 THE SECRETARY: We will adjourn until 9.30
12 tomorrow morning when there will be a brief presented by
13 The Canadian Federation of Business and Professional
14 Women's Clubs.

15 THE CHAIRMAN: Thank you.

16
17 --- Adjournment.
18
19
20
21
22
23
24
25
26
27
28
29
30

